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Frances FitzGerald on the Shah • Shrum on Jerry Brown

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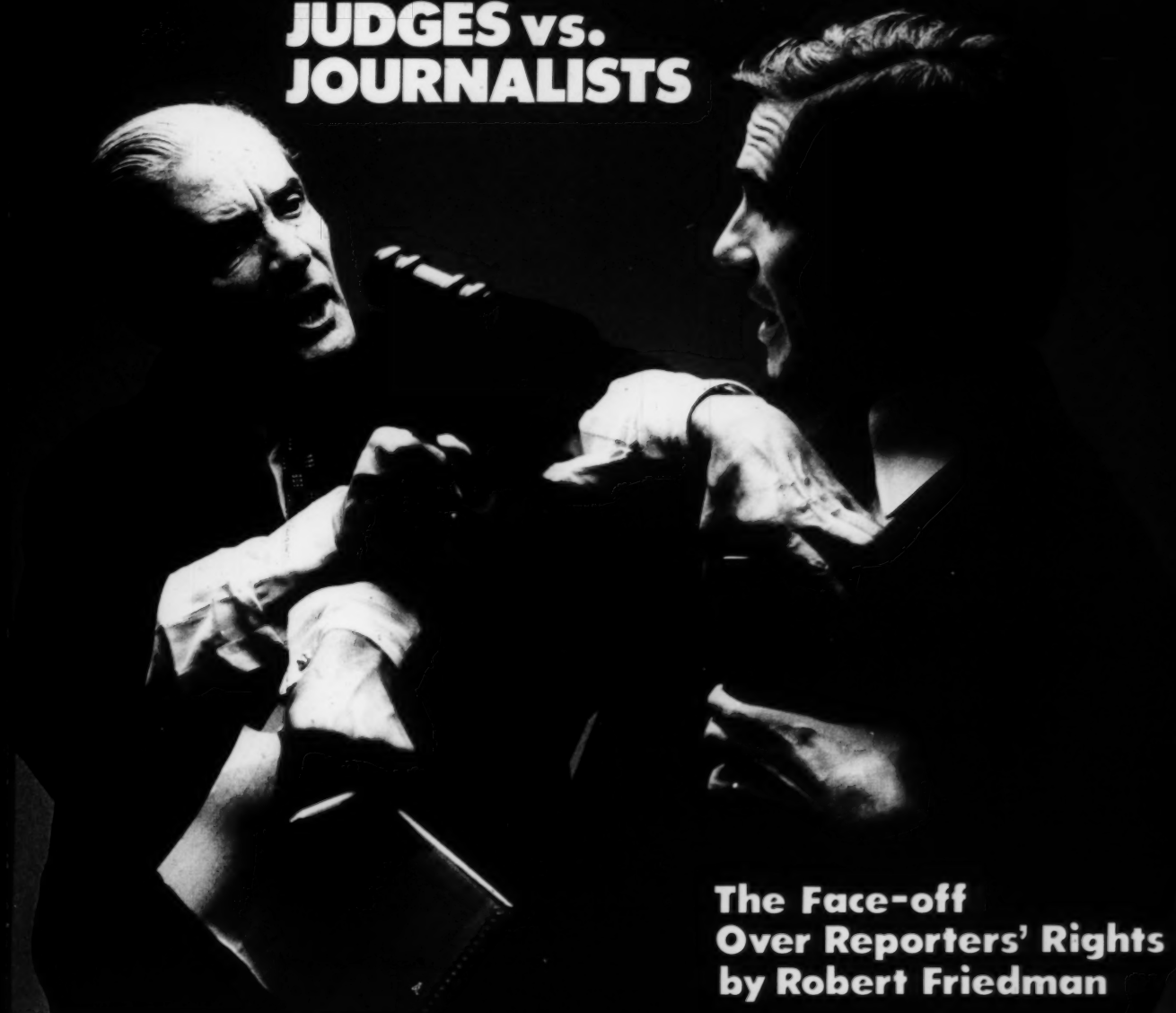
THE FEATURE NEWS MAGAZINE

New Times

JUDGES vs. JOURNALISTS



The Face-off Over Reporters' Rights by Robert Friedman

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VOLUME II NUMBER 12

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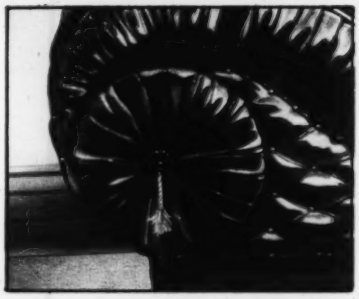

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SOME OF THE NEW COMPACT, AUTOMATIC CAMERAS SEEM VERY EASY TO USE. UNTIL YOU START USING THEM.

There's more to an easy-to-use camera than automatic exposure. Yet that's what most of the new 35mm reflex cameras are: automatic, but hard to use.

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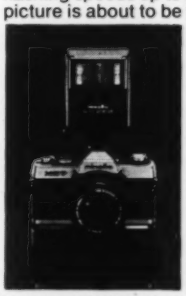
It's easy to be creative. You can make the automatic exposure setting brighter or darker for creative effects.

An easy-to-understand electronic viewfinder. Light emitting diodes tell how the XG-7 is setting itself and warn against under- or over-exposure.

An easy-to-see electronic self-timer. The self-timer lets you get into your own pictures. It's a large flashing light mounted on the front of the camera. The flashing speeds up to let you know when the picture is about to be taken.



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LETTERS

Of Mice and Men

Do you have a system that I might borrow for ranking which superlatives I ought to use first about Becky O'Malley's Disney (October 16) article?

Ms. O'Malley has given your readers, and by extension has given everyone who is likely to have to deal with *any* of the Disneymaniacs, a perfect piece of writing: It can stand by itself, but my thinking is that it will instead be a call to action, both here in California and (possibly) in Florida.

Jeanette Anderson
Oakland, California

Sam, You Made the Pangs Too Long

I am much perturbed by the article on Cambodia (November 13) by William Shawcross. We subjected this small country to a brutal bombardment, in which we dropped more tonnage over Cambodia than we did over Germany in World War II. After we devastated the countryside, we sit back and criticize the aftermath.

Cambodia, which was the victim of an illegal and immoral attack by the U.S., needs food, clothing, and supplies rather than hypocrisy and crocodile tears.

Phnom Penh's population of 600,000 had been swollen to 2,500,000. Food was available for only a few days. The new government had no recourse but to send the people into the countryside, where they might grow crops for their own sustenance.

Officers and leaders of the old despotic regime had to be detained and reeducated. What else could have been done to insure the safety of the military government that had had to assume power? The situation was chaotic, so stern measures had to be taken.

By now the leadership wants nothing to do with what we call the free world. Our bombers have been a truly educational force.

Bernard Forer
Sarasota, Florida

The Boy of Summer

I have been a Red Sox fan for 20 years, and a Carl Yastrzemski admirer since his first appearance 18 years ago. In all that time I have not read an article more moving than John Eskow's "The Indian Summer of Carl Yastrzemski" (October30).

Here in Boston we take our sports teams to heart, especially the Red Sox. Unfortunately, our sportswriters often exhibit a lack of taste and talent with the pen.

I bought the September 18 issue of *New Times* primarily because of the story on Yaz. After reading the entire magazine, I have decided to subscribe. *New Times* is informative and refreshing.

Susan Larson
Arlington, Massachusetts

Pro or Con Artist?

Thank you, thank you, THANK YOU! My daily half-hour of Stanley Siegel can barely keep me satisfied. I'm extremely grateful that your magazine was able to increase my dosage of this incredible talent (November 13).

Stanley indeed is in a class by himself. His show and personality have changed my outlook on life. When he wins so do we all. Everyone can identify with his ups and downs. Since watching his show, I've learned to take chances in my own life that perhaps I would not have had the nerve to take before. The results have been thumbs-up almost every time. For some, he beats therapy or religion. To sum it up: He is *our* man on the tube.

Karen Bekas
Clifton, New Jersey

NO! NO! NO! NO! And unless there is a sudden rash of lobotomies, America will *never* be ready for Stanley Siegel!!!

So poor Stanley couldn't compete with Phil Donahue because WABC wouldn't give him a set or a minicam. Has he ever heard of originality in television? Of making the best of what you have? Ernie Kovacs and Steve Allen didn't have anything either. Except talent. And the desire to make television live up to its potential.

In New York City it is possible to get a decent night of television because of cable TV. True, there are a couple of nut cases with their own shows, but there are also good, solid programs featuring producers and performers who believe in the potential of TV and are working—WITH NO SETS OR MINICAMS, STANLEY!!!—at making TV live up to that potential. An excellent example of what's happening on public access is *Bread and Circuses with Tom Leykis*. Please, *New Times*, tell us about the performers who feel responsibility to the viewer.

Kathy O'Connell
New York, New York

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PARTY LINES / BY ROBERT SHRUM

TWO CHEERS FOR JERRY BROWN

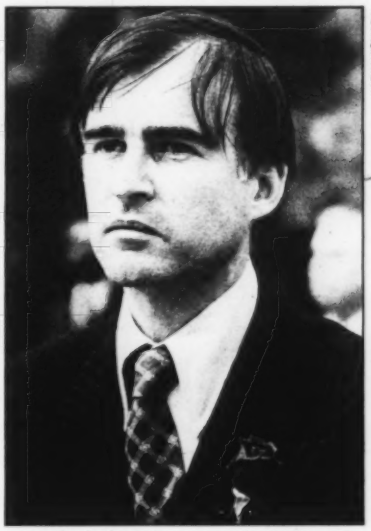
It was the night before the election and all through Lucy's El Adobe, Jerry Brown's favorite Mexican restaurant, they were stirring pitchers of margaritas, consuming platters of quesadillas and celebrating Brown's sure victory in advance. Deputy campaign manager Bill Press stood happily amidst the crowd chanting "four more years"—while holding up two fingers.

Brown himself was so certain of his imminent landslide that he had deigned to spend this last campaign day flying the length of California with the rest of the state Democratic ticket. "The image he's trying to project is that of a team player," said a state official along for the ride, "but in fact he's a loner. Nobody wants to trade one Carter for another, but *this* guy is even worse."

At the Hollywood-Burbank Airport, Brown spoke for two minutes to a sparse rally made up mostly of campaign workers, reporters and TV cameramen. But jammed in between the rows of molded plastic chairs, the non-crowd would look like a sizable one on television. After the rally, the Governor, his running mates and a few journalists climbed aboard a chartered turbo prop. "Air Force One-Half," a Brown aide called it.

Two hours later in San Francisco, Senate Democratic Whip Alan Cranston reinforced the impression that each stop was only another way station en route to the White House. "Jerry Brown thinks big—about the future of our state, our nation and our world," Cranston said as he introduced Brown to 500 people gathered in the lobby of the Hyatt Regency at Embarcadero Center. While hotel guests sipped white wine at a plush lobby bar within ten yards of the podium, Brown contented himself with little more than the ditty of the born-again tax cutter that he would repeat all day: "Jobs are up/Taxes are down/Vote your pocketbook/Vote for Brown."

For Brown, conspicuous austerity is the conviction, and the strategy, of the moment. "For ten years," he says, "Democrats and Republicans have been promising to cut government



KARIN VISMARA

spending, but it never happens. In 1979, in California, we will do it." During the campaign, orders went out to the state bureaucracy to find ways to reduce each agency's budget by 10 percent. At one point, the Governor even pledged "to do what's never been done before—to actually make government spending go down." (A member of his inner circle cautions that Brown must mean the number of state employees, or the rate of government's growth, since a budget actually lower in total dollars than last year's would "devastate" public services. Even at the same level, the budget would lose 10 percent of its value through inflation.)

By whatever means, Brown's advisers are confident that he can trump any Carter play at being a pinch-penny. Explains one, "In 1980, Jerry will say that Carter got captured by the Washington insiders. Look at how his budget went up—$200 or $300 billion, 50 or 60 percent. As governor in the same four years, Brown can claim, 'Mine went up only 10 or 12 percent—or maybe even down—and we cut property taxes by two-thirds.'"

The austerity issue also allows Brown to add a kind of conventional solidity to his off-beat national image. Voters will feel safer with a Zen student sleeping on the White House floor if he also seems to be a competent fiscal manager.

The frugality strategy, complains one Democratic state official, also means, however, "a Reagan kind of attack on government. Brown is a born-again Reagan." Yet Ronald Reagan never would receive the warm reception that Brown did the day before the election from 2,000 students at the University of California at Davis, all well-behaved descendants of the sixties—the counterculture with a neat haircut. Brown appeals to their moderate sense of reform. At Davis, he endorsed "rafting" and the preservation of "white water." He blasted nuclear power.

Brown, in fact, seems to represent an ideological synthesis that reflects the mood of California—and perhaps of middle- and upper-middle-class Americans in general. According to a *Los Angeles Times* pre-election poll, Californians tend to be conservative on economic issues, to believe that "government should be as small as possible" and that it should not step up "programs to solve the problems of poverty and unemployment"—but should be liberal on lifestyle issues. It should "support affirmative action ... favor women's liberation, and ... not be so likely to condemn marijuana smoking or sexual freedom." Voters in the survey regarded Brown as the candidate who "would do the most to preserve the environment" and "make Proposition 13 work"; who "would keep taxes down"—and was most likely to "legalize marijuana smoking."

"There is a new constituency," says one Brown adviser, "and Jerry has it. It's typified by the kind of people who were for McCarthy over Kennedy in 1968"—as Brown himself was. It is more libertarian than liberal. It is the constituency Brown was reaching at the Davis campus. Like his program, the applause at the end of his remarks conveyed none of the intensity of the 1960s—or its faith in politics as an effective instrument of progress.

Yet the next day, election day, in the *barrios* of East Los Angeles, it was evident that Brown's appeal cuts a wide path. "There's a dynamism with Brown that only Bobby Kennedy came close to," said Assemblyman Art Torres. "East L.A. registered 15,000 new Chicano voters for Bobby in 1968—and 53,000 this year for Jerry." Among the 700 people working the East L.A. precincts this election day was Cesar Chavez, there to ride through the *barrio* on a sound truck, urging people to vote for Jerry Brown.

How does Brown pull off the sombrero trick of being both a budget cutter *and* another Bobby Kennedy

among the Chicanos, who depend so heavily on government programs? As Art Torres sees it, it is a matter of the Governor's priorities: "Brown is committed to keeping bilingual education even when education is cut. And after 13, he protected health programs important to this community."

The prototypical orphan of the 1960s, Tom Hayden, offered the same answer that night. What was he doing at Brown's victory party? "I work for the guy," he replied. "I think the budget can be cut in this state. We ran the anti-war and civil rights movements on low budgets. It depends where you cut." In his victory statement, Brown himself saw "a dual vision for our people"—a government "leaner, more austere, more disciplined," but one responding "in a way that is humane, that keeps our commitment to equal opportunity."

The Governor's campaign manager and staff chief, Gray Davis, argues that "there's not a one-to-one relationship between money and government activism." Brown disdains "social programs that are well intentioned but trickle down to the poor. The real problem is to equip them for jobs." And that does not necessarily mean spending public money. Brown is talking of having business hire unskilled workers and train them, thus shifting costs to the private sector. (He has yet to explain how business will be persuaded, or required, to pay for "space-age technology preparation," as he calls it.)

"The real issue," says a Brown adviser, "is anti-bigness—anti- big government, anti- big business and anti- big labor. It's where left and right come together." Health care, for example, is one area in which Brown believes he can be fiscally conservative and programmatically liberal by curbing established power. He assails "the providers, the equipment salesmen, the hospital-construction firms." He says that government can save money "if we can dramatically cut the rate of medical inflation—and that won't hurt one poor person." He proposed state controls on medical costs two years ago, which, he notes, "went over like a lead balloon then." Now, however, he figures that Proposition 13 gives him the leverage to push it through.

On election night, Brown prescribed the conventional nostrum for inflation—to cut it by curbing "spending at the state and federal levels." Such talk about big government, Tom Hayden suggests, "should refer to the Pentagon and not just social programs. But, as one Brown associate puts it, "Jerry doesn't have to decide where the federal budget should be cut, so he won't. He can go with the flow."

Brown has even laid the groundwork for blaming the federal government if post-Proposition 13 revenues result in cutbacks that anger Californians (a plurality of whom still believe, according to the *Los Angeles Times* poll, that officials can "find money somewhere" instead of drastically reducing services). Brown has publicly suggested that the economic slowdown due to the President's anti-inflation program will have a negative impact on revenues. "A Carter recession could mean big problems," explains a Brown insider. And should those problems become too big, Brown can recall that, after all, Proposition 13 was not his idea. Even now he carefully disclaims paternity: "I did not recommend it. It's not the mechanism I would have designed." Staff chief Gray Davis calls Proposition 13 "not rational, not logical." Brown will work with it and try mightily to benefit politically from it; but, as he himself has said, "It is hard to tell how long the [anti-government] mood will last." Brown's advisers are even drafting a contingency plan for bigger government that in effect would reverse Proposition 13 (see "The Insider," p. 16).

"Jerry doesn't have to decide where the federal budget should be cut, so he won't. He can go with the flow"

The disturbing thing about Brown is that his "flow" always tends to follow the ever-shifting majority of voters—and that strategy may be his only substance. Gray Davis says of Brown: "The trick is to be eclectic in your approach, and he is." On second thought, Davis adds that "'trick' sounds bad" and asks that "task" be used instead. Yet one is left with the feeling that "trick" is just the right word.

Brown is clever, but is he committed? Does he care enough about anything to pay a political price for it? He bridles at the question. "I vetoed the capital punishment bill," he answers crisply. "I opposed Proposition 13. I supported Proposition 14," the initiative to protect farm workers that lost in 1976 despite an intense Brown campaign. "I appointed Rose Bird," the liberal Chief Justice of California, who, with Brown's help, barely survived a right-wing attempt to vote her out in this election. "My positions are more advanced positions than have been taken by any other politician."

In effect, he argues, as one staffer puts it, that "while he might not cross every liberal 'i' and dot every liberal 't,' the results are the ones that should matter to liberals."

But the question that nags is how much they matter to Brown. Two years ago, for example, he proposed a tax reform that would have benefited disproportionately those at the lower end of the income scale. The legislature rejected it and now, Gray Davis says, "Jerry's dubious about tax reform as an issue." Another adviser suggests that Brown believes in "push and give. You move in on an issue and then back off. If at first you don't succeed, don't try again for a while." Brown calls the process "challenge and response," a term he says he has taken from Arnold Toynbee: "We advance one step; then the second step is to catch up with the first step." So one is left unsure of who Jerry Brown is. Is he, as another state official says, "an ex-idealist who's settled into political narcissism, a man who's aware of limits, all right—too aware by half"? Or, as one of his strategists insists, is he the best bargain liberals can make with the future?—"a man who can restore the progressive impulse of the Democratic Party because he also seems fiscally conservative. Carter can't pull it off; Jerry will."

All the polls were closed in California by 8:00 P.M. At 8:01, NBC projected a Brown victory by 20 points. As it turned out, he won by the greatest margin of any governor in the history of the United States, by more than Earl Warren or Ronald Reagan—by 1.4 million votes, 400,000 more than the margin for his father, Pat Brown, in 1958. "It certainly sets the stage nicely for 1980," a Brown aide said.

The bottom line is that Brown will run if Carter looks weak. At a press conference Brown was asked why, if California is so challenging a state to govern, he won't give an iron-clad guarantee to stay for the next four years. "It would make your job too easy," he answered, sweeping his arm toward the pack of journalists. A reporter who has followed him says: "Waiting for Jerry Brown to make a mistake is a long wait."

With the returns in, the victory speech given and cheered and the network interviews finished, Jerry Brown repaired to El Adobe with staff and friends. Lucy Casado said she was planning another party for Jerry in her restaurant on, say, election night in 1980. "Four more years!" she said, winking as she raised two fingers. If she does get to throw that party, one might feel better about it if, between now and then, Jerry Brown made a mistake of the heart. Then at least we would know that he had one—and perhaps even where it lies. ●

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I'll have a Chivas... Chivasontherocksplease... Let me have a

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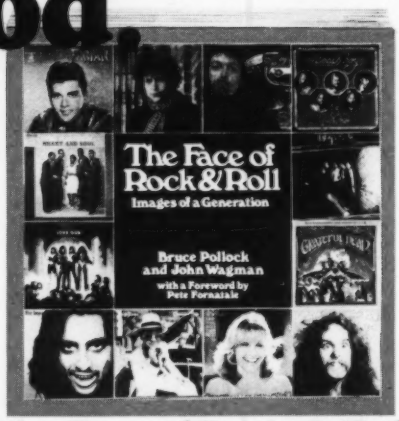

The Face of Rock & Roll
by Bruce Pollock and John Wagman
with a Foreword by Pete Fornatale

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ADDENDA & ERRATA

Once More Into The Fray. We prefer our Final Tributes to be truly final, so we must report with some embarrassment that Harold Stassen is running for President again. In September, when Stassen lost a senatorial primary election in Minnesota, he sure looked washed up to us (waterlogged, actually), and we said as much in our Final Tribute column. But in November, refreshed and ready for more, the old recidivist announced his candidacy. "I'm going into all primaries in states that do not have a favorite son," he told reporters. "I'll enjoy it. I enjoy campaigning." Apparently so. We should have known better.

The "Stinky" Watch. There has been a strange development in the search for "Stinky," the Berkeley rapist whose most salient characteristic is a petroleum-like body odor. As we reported in our May 15 issue, "Stinky" has 62 known victims and has managed to elude police since June 1973, when the string of rapes began.

But on the night of October 27, police descended on a villa in North Oakland, believing they might have found their man. Inside, they arrested Walter Taylor, a 44-year-old black photographer, an ex-con who has become an anti-crime lecturer. By Taylor's account, reported by Warren Hinckle in the San Francisco *Chronicle*, police later stripped him and took detailed photographs of every part of his body. They also took samples of his pubic hair, head hair, saliva and blood. While in custody Taylor appeared in a line-up; police decline to reveal what happened, but on Halloween morning, nearly four days after he was arrested, Taylor was released. The arrest was expunged from his records and he was deemed to have been merely "detained." Reportedly, police asked the Bay Area press not to write about the incident.

What makes this even stranger is that Taylor had helped the police conduct their "Stinky" investigation—or at least had tried to. Last March he wrote a 12-page, single-spaced memo cautioning police that "Stinky" might be someone they would least suspect, perhaps even someone who had attended the community meetings about the case as a way of hiding his involvement. The memo may have led police to Taylor himself.

Meanwhile, nearly five and a half years after his first rape, Stinky is still at large. ●

FOREIGN AFFAIRS/BY FRANCES FITZGERALD

THE SHAH DISCOVERS HIS PEOPLE

The Carter administration was clearly surprised by the rebellion in Iran; and small wonder, for until last spring the foreign-policy establishment—both policy makers and journalists—had confined the discussion of Iranian politics to the person of the Shah himself. What was the Shah like as a man? What did he say last week? The assumption behind this discussion was that the Shah was the only person who counted in Iran; that the country, being underdeveloped, had no politics in the sense that advanced countries do; and that Iranians, being apolitical, would simply accept a dictatorship as necessary and good for them.

The foreign-policy establishment has traditionally made similar assumptions about almost all Third World countries. (Henry Kissinger was an exception; he thought it of southern Europe as well.) Put in more general terms, the notion is that the Third World will be run by strongmen or small ruling elites, and that if there is any opposition, it too must be an elite: Communist cadres, say, or intellectuals, or traditional religious authorities. The rebellion in Iran is, however, a mass movement, and it is far from being the exception that proves the rule. With it Iran has joined a fairly large group of Third World countries, including Cuba, South Vietnam, India, the Dominican Republic and Nicaragua, that have seen mass participation in movements against dictators or small elites. (For Kissinger's benefit, one would also have to include Spain, Portugal and Greece.) It has also joined the just slightly smaller group of countries whose popular rebellions have been aimed at dictators installed by the United States.

Until the oil crisis of 1973, foreign-policy makers and journalists painted the Shah quite simply as the hereditary monarch of an ancient and traditional empire and staunch ally of the West. After the Shah took part in the OPEC revolt and his oil revenues quintupled, their portrait became more complicated: The Shah was a touchy, sometimes difficult man, and his regime did violate human rights. On the other hand, he was a staunch ally who was trying to modernize his country as fast as possible and maintain stability in the region. The portrait is a most interesting one, for not only is it wrong in almost every detail, but just to see where it is wrong is to understand a great deal about the causes and shape of the rebellion.

In the first place, the Shah is anything but the hereditary ruler of an ancient empire. His father was a colonel who deposed the reigning Qajar monarch by a coup in 1921 and took the name Pahlavi—the name of the ancient Persian language—as a piece of public relations when he crowned himself Shah. The Shah thus has no relationship whatsoever to Cyrus or Darius the Great. As for his claims to the Peacock Throne, they are far less legitimate than even his father's, for it was the British who put him on it in 1941 (when they forced his Axis-leaning father to abdicate) and the CIA that saved it for him when he fled the country during the last popular rebellion against him in 1953.

In the second place, although Iran has always had a monarchy, it has in this century had long periods of constitutional monarchy; it has had a powerful national legislature and mass-based political parties. The current demands for representation are thus demands for a restoration of the democratic process.

As for the claim that the Shah is "modernizing" his country, the reality is that he has merely imported pieces of modern technology—a hotel, a hospital, a steel mill—and set them up around the country like pieces on a Monopoly set. The imports have destroyed the traditional economy, and they do not work, since there are no connections between them or between them and Iranian society. Teheran could stand for the Shah's whole enterprise: It is a city with more than 4 million inhabitants and dozens of gleaming new skyscrapers, yet it has no sewage system and it must import most of its food from abroad.

The Shah would like to develop his country; he would like to have sewage systems, teachers and technicians, even social welfare programs and some system of social justice. But he cannot—not while he insists on absolute rule, and he insists out of fear of losing everything. On paper the Iranian government must look much like the government of any Western country (with one eccentricity: a secret police), but in practice it is very much like the courts of the ancient Persian despots. The English-speaking ministers in their French-cut suits and the executives with Harvard or Stanford business degrees do not administer so much as try to manipulate a web of conspiracies and counter-conspiracies. It is not a matter of "untrained personnel," as they like to say. Any number of people could be trained (abroad, not at home, for the spirit of scientific inquiry cannot coexist with Oriental despotism), but nothing would change because inefficiency and corruption are the system.

The interesting, and perhaps unique, fact about the Shah's regime is that at no time did anyone really like it—not even the Shah himself. Having no rules, it made everyone feel insecure, powerless, out of control. Why so many people tolerated it for so long is the real question—and here there are two answers: Until the oil money came in, "modernization" had not reached a large part of society, and when it did, many became extremely rich. Cooptation, then, and on the other hand repression: the secret police and the torture chambers. The combination worked for a while, but it carried its own design for self-destruction. On one hand, the more money, the more corruption. The economic anarchy managed both to widen the gap between the rich and the poor and to terrify the rich. On the other hand, the more "modernization," the more the need for the secret police; and the more secret police the greater the paralysis of the society by fear and inefficiency. (The SAVAK in fact grew like a cancer, its agents duplicating not only the opposition groups but the whole government and eventually—estimates being that one out of every eight Iranians is an informer—the whole society.)

Finally, the Shah's regime is the very reverse of staunch and stable, since, with all power and all national attention concentrated in the monarch, the government resembles an inverted pyramid, the Shah himself the pinpoint upon which the vast weight of it balances.But it is in this—even theoretically untenable—structure that the United States has chosen to place its confidence, as well as some of its more dangerous pieces of machinery. Now the U.S. ambassador, William Sullivan, is undoubtedly telling the Shah he is right to restore order and stability by calling out the army. But there can be no real order or stability in Iran until the structure is changed and the Shah releases power to a more representative government. ●

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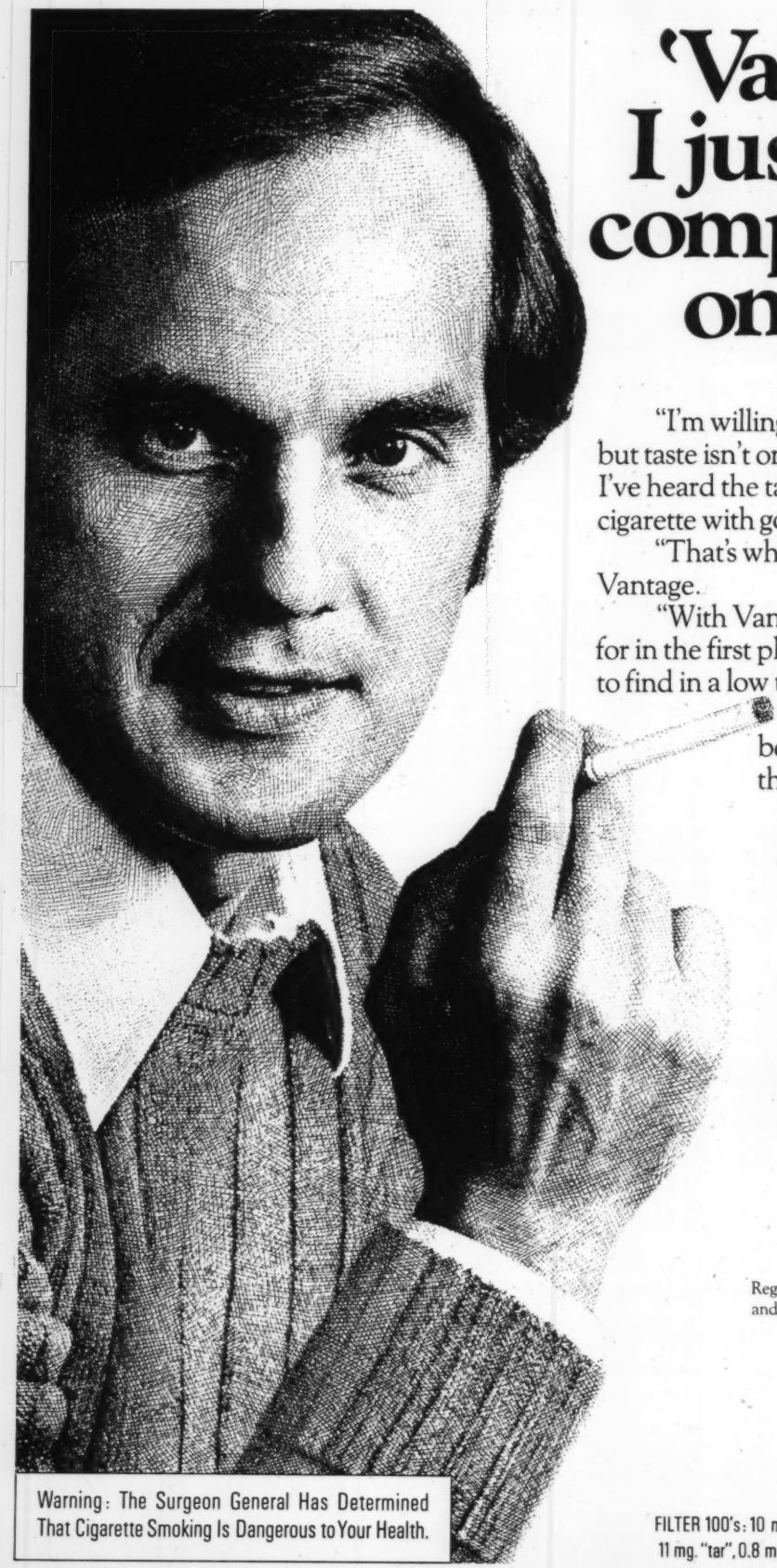
'Vantage. I just won't compromise on taste.'



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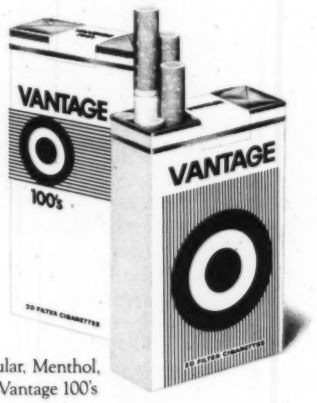
"For me, Vantage is the best tasting low tar cigarette there is."

Jack G. Bacon

Jack G. Bacon
Memphis, Tennessee



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AMERICANA / BY GLENN COLLINS

LONG DAY'S JOURNEY INTO CONSCIOUSNESS

Hey, I'm into a new lifestyle—that doesn't require my presence. . . .

George Carlin is poolsharking his way across the stage of the Julia Richman High School auditorium on Manhattan's East Side. It is midnight, and he is performing, as it were, the Sermonette for The Event, Jerry Rubin's 14½-hour celebration of the New Consciousness and the Tonight Show (other guests: Wayne Dyer, Arnold Schwarzenegger, Dick Gregory, Masters and Johnson, George Sheehan, George Leonard, Buckminster Fuller, Werner Erhard—and *h-e-e-e-e-e-r-e's Jerry*). You are, perhaps, glad you did not have to sit through it (or you should be, since Julia Richman bequeathed her students seats harder than est chairs). But you are also, perhaps, wondering if there was something you missed when, in Jerry's words, "the pioneers of human awareness came together to transform the world in a positive way." But be of tranquil spirit, for many wonders shall be revealed here. The inspirational text for our sermon will be provided by the Very Rev. Carlin himself; excerpted, in italics, are sacred highlights from his words to the multitude.

Look, I know a guy, his consciousness got so high, his Lucky Number changed. . . .

The 1,500-seat Julia Richman auditorium is a strange place to hold an Event. But perhaps Julia Richman would have understood: In 1896, she founded *Helpful Thoughts* magazine. Less than two weeks before The Event, one of Jerry's staff members said, "he was so depressed he considered canceling the whole thing, since only 700 tickets had been sold." We are talking about seats that cost $60, $45 and $32. The Event was moved to Richman from the 4,600-seat Felt Forum downtown, and Jerry took to passing around a chain letter that began "Dear Friends of Consciousness," urging recipients to "SPREAD AWARENESS IN NEW YORK CITY . . . MAKE FIVE COPIES AND MAIL THIS LETTER TO FIVE FRIENDS."

Did you ever try to get a dog to look at ANOTHER dog on TELEVISION? They NEVER look where you want. . . .

Early on, The Audience fights the Battle of the TV Lights. Right off, Jerry and Mimi Leonard, his wife of six months and co-organizer of The Event, begin to lead the folks in some fairly tame awareness games (talk, touch, pick a partner you've never seen before). The Event is being videotaped, and when the harsh lights are aimed at the crowd, the audience objects ("I can't relate when those lights are on!" yells one man near me). Mimi leaps into the fray. "Wait a minute, wait a minute," she says commandingly. "How *lucky* we are to have the press here today. Don't you know that? We're very *proud* to have them here. Thanks to them, people all over the *country* and all over the *world* will hear about the health movement and new consciousness."

The TV lights go off, the audience cheers. A realization is dawning: There is The Audience, and then there is The Event. Later, it will become clear that only rarely did The Event measure up to The Audience. Even now, while the crowd continues to perform the awareness games with great spirit, Jerry and Mimi abandon The Audience to pose for a knot of photographers that has formed and start smooching for the fotogs.

Cats near your legs are like Newton's Third Law—you push on them and they push back with equal force. . . .

It is early still when Arnold arrives, and already The Audience is a source of wonderment for those in The Event. Arnold is, of course, Arnold Schwarzenegger, who does know how to fill a blue blazer. After sniffing around, he encounters Mimi outside in the corridor. "Fery gret audience," Arnold says in his silky Graz accent. "I think you may haf gifen all of them five pounds of cocaine, yes?" But when Arnold first gets to the podium of The Event, The Audience is not so fery gret. Suddenly, the TV lights go on again, and so does the Revolt of The Audience. Shouts of "Turn off the damn lights!" drown him out.

Arnold is not pleased. "They are from TELEFISION," Arnold says quickly. "They are fery IMPORDANT." He pauses. "Now. You MUST know that there iss only VUN perzon speaking in this auditorium." Jawohl. The lights go off; The Audience settles down to give Arnold his customary adulation. That is sort of the way it goes for The Audience—seekers, all; prosperous, generous, well-groomed, amiable; being marched through Event Processes by Jerry and Mimi, massaged by the speakers, strobed and interviewed by the media and funneled through a flea market of New Consciousness gewgaws as they make their ways to the bathrooms upstairs.

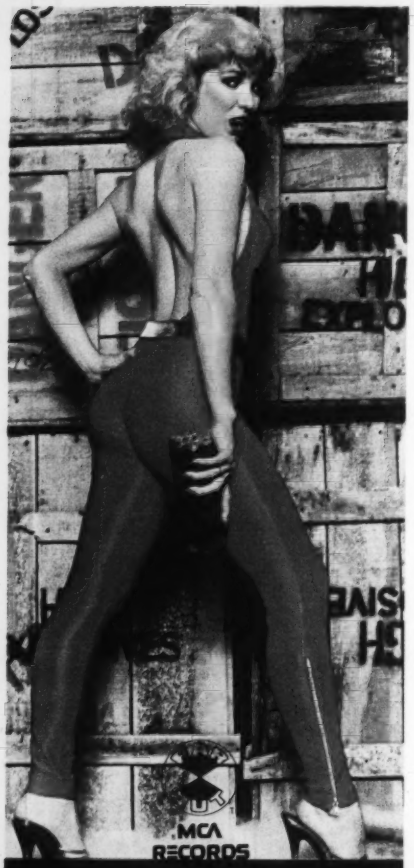
The side show in the halls is one of the more enjoyable attributes of The Event. Card-table displays lining the corridors expose The Audience to The Shaklee Way Slimming Plan, Negative Ion Generators (including the Airion Car Model for only $89.50), Smokenders, "Lynne Miller's THIN FOREVER! Inc." and information about cancer cures ("TAKE ONE—The Role of Sincerity in Cases of Spontaneous Remission"). A $12.95 Pyradome (that's a wire pyramid you wear on your head) sells for only $10 ("No orientation to North is required!"); Superdomes, made with titanium, go for $70, reduced from $100.

I mean, sex has the look of competition. A little kid happens to walk into the bedroom, he's gonna say, ooh, Daddy's winning. . . .

Next, the advent of Masters and Johnson. "Ah, the Perrier is splashing!" says Virginia Johnson Masters to her husband at the start of the press conference. "We're on a scientific holiday," she answers, when asked why they are there. On the stage, Masters—avuncular in bow tie and brown corduroy jacket—and Johnson, matronly in red blouse and white skirt—look stolid and pleasant, almost like Uncle Bill and Aunt Virginia at the penny social. Witty, wise and warm, they stress that sex isn't a form of competition, but more a form of communication.

They also make something of an announcement: that, after 14 years' work, their study on homosexuality will be published in April, and that they will reveal "a population never identified before, exquisitely rare," says Masters. "They are the 'ambisexuals,' to whom everyone is a sexual partner . . . . They sexually engage with everyone, male or female—as long as they're warm."

George Sheehan arrives backstage and asks, "Where's the bathroom? I have a 45-minute bladder." It has already been a great day for George. Only that morning, he won the mas-



TANYA TUCKER

TNT

Her new album is dynamite!

Produced and Arranged by Jerry Goldstein
A Far Out Production for Tanya, Inc. on MCA Records.

ter's division of a 10,000-meter race in Lincroft, New Jersey, running 38:30, his best personal time of the year. Sheehan goes before The Audience in the late afternoon and is the first speaker to bring the crowd to its feet, with his tale of the best 10-kilometer race he had ever run in Central Park—and about how, afterwards, recovering from his exhaustion in the Church of the Heavenly Rest, he said to his table mate, "I feel so great. Right now I could pull the sword from the stone."

Earlier, I had asked him, "What's a nice runner like you doing in a place like this?" and he had laughed. But it is obvious what he is doing in this auditorium: He has been Transformed, and he wants to share it with those who know that feeling too. "What we are, that we can perceive," Sheehan quotes from Emerson. "Running is a religious act. I can *tell* you about running, and you won't understand. You have to learn yourself."

George Leonard, who wins the Phrasemaking Award of the day by saying, "Each of us is a hologram of the entire universe from an absolutely unique point of view," leads us all in a series of aikido strength-from-the-*ki*-beneath-your-bellybutton routines. (Eighty-three-year-old Bucky Fuller does the exercises with everyone else.) Bucky, during his turn on the stage, looks for all the world like the White Rabbit as he keeps taking a gold watch from his waistcoat again and again to time his speech. Bucky moves us right along through the history of calculation, synergy and the behavior of whole systems. He puts aside Fullerese for a moment to say, "Trust yourself . . . you're playing in a great game, nature's own great designing game."

Or maybe you've experienced this one. You get those little things in your eyes, you know, those EYE FLOATERS—and you try to look at 'em, and you can never see 'em. Have to take 'em by SURPRISE. . . .

Waiting for Werner. I am sitting in the Green Room, the first-floor classroom appropriated for The Event's organizers and speakers (most of whom, interestingly, have also sat in the official Green Room, Johnny Carson's). Consuming a salad platter prepared by Pinch of Love Natural Foods Catering Service, I hope that no one will notice me.

"Is Werner here yet?" asks one volunteer.

"Any minute," another replies. "Did you see *Arnold* this morning?"

"Couldn't. How was he?"

"Oh, Arnold did the usual."

Jerry Rubin signs a check that is whisked away by an Event staffer. Another zips in the door. "Werner arrived yet?"

"Nah," says Jerry, who engages a staffer in a security discussion, something about people across the street. "O.K., we know who they are," he says. "They won't get back this far."

"Do you think Werner will just slip in the side way, or what?" asks another volunteer.

"Dunno," says Jerry.

"Who's going to introduce me, Jerry?" asks Raul Julia, who will recreate his Broadway "Dracula" role, warming up the crowd for Werner Erhard and asking The Audience to fill out pledge cards for The Hunger Project, Werner's drive to end world starvation and malnutrition by the year 1997. The pledge cards say, in estspeak, "The Hunger Project is mine completely. I am willing to be responsible for making the end of starvation an idea whose time has come."

"What will they say when they introduce me?" asks Julia.

"You're the scariest man in the world," says Jerry.

Everyone gets back to Waiting for Werner; I go back to my Tahini salad. Mimi approaches. "I'm sorry, you'll have to leave," she says.

"Okay, I'll just finish my Perrier."

"I'm sorry, you'll have to finish your meal upstairs. You are supposed to be upstairs with the rest of the press."

Matt Weinstein, who dedicated the conference to the Spirit of Power, stops to chat with me. Mimi returns. "Listen," she says, "I asked you to leave *ten minutes ago.* Now get out." The face is quivering. The eyes are steady.

"This isn't very nice," I say, thinking of how just that morning Mimi had said how lucky The Event was that the press could be there.

"Listen, you, *you get out.*"

"Going." I left the rest of my Pinch of Love salad for Werner.

"*Out.*"

Back with The Audience, I encounter my source among The Event workers. I'll call her Deep Volunteer, since she is edgy about being identified. The 60-odd volunteers are, she says, "for the most part an est coven. I got here at 5:00 A.M. today in my jeans, and God, they were all *dressed.* Really dressed. Well, not like they're from Bloomingdale's, but maybe like they're TM people. They're all waiting for Werner." Not Deep Volunteer, however. "They had me putting pats of butter on the health bread all afternoon for the damn dinners, and I'm sick of it."

Est volunteers, Mimi's protectiveness, Jerry saying that Werner "has had more influence on my life than anyone else in the last five years." You wonder if The Event isn't really "The Estvent." And suddenly it becomes just

The Wonder of Werner: "Oh, goodness. I was supposed to talk about love..."

that, for Werner has arrived. Est security personnel move quickly down the aisles and face The Audience rather ostentatiously, eyes roving. (At least Secret Service men look *bored* when they protect the President.) The est people observe the reporters and photographers who gather near the stage. A black-shirted, square-jawed security man zeroes in on a bearded fellow behind me and says loudly, menacingly, in a declarative est I-message, "I . . . would . . . like . . . you . . . to . . . return . . . to . . . your . . . seat. Now."

Werner says from *his* seat, a director's chair, "I want to talk about making this the most important day in your life." He is, hands down, more charming, magnetic, articulate and twinkly-eyed than Bert Convy in *Semi-Tough*. He is wearing a truly great pair of shoes.

Werner's topic tonight is something of more than passing interest: nothing less than Enlightenment. Werner tells us—no, *me*, I insist he was speaking to *me*—that you can't *get* enlightened, that you have to take responsibility for your own enlightenment. "People will give up *anything* in order to be enlightened except the one thing they have to sacrifice. People will not give up that they are *not* enlightened. . . . You *are* enlightened, so just acknowledge it."

A nifty point, that, but one a less gifted presence than Werner could have made in about three, three and a half minutes. Werner takes about 40 minutes, during which time he derides "people who sit in the lotus position until their knees are going bad," people who want to "have their third eye opened," people who want "the angels to blow in their ears" and people who are "waiting for someone to give them robes." That's right, stick it to The Audience. "Is there anyone I haven't offended?" Werner asks, playfully.

Minutes later, he stops in mid-stride. "Oh, goodness," he says. "I was supposed to talk about love, and instead I got into enlightenment." Indeed, the program had listed Werner's topic as "The Experience of Love." Oh, well. If it's Sunday, it must be The Event. (We're doing enlightenment *tomorrow*, Manny, in Pittsburgh.) Werner briskly proceeds to hold forth on Love. I was glad I'd heard him on Enlightenment, because he lost me on Love when he started talking about the *chairness of chair*. I've learned through trial and error that love has something to do with *feeling*. In any halfway decent therapy group they might say that Werner tends to intellectualize a bit.

They take liberty with words, the airlines. I mean, have you ever been on a NON-STOP FLIGHT? Hey, I don't know about you, but I insist that my flight STOP. Right at the END. . . .

Werner wasn't the only one who might have been confused about what city he was in. George Sheehan headed for Cleveland after *he* spoke. Masters and Johnson weren't available for the Eyewitness News Team after their talk because they'd already left for the airport. Bucky Fuller, after signing a few autographs, charged out of the building in search of a Boeing 727. And Wayne Dyer left smack in the middle of the afternoon press conference, actually uttering the words "I have a plane to catch." The Event had been billed as a synergistic gathering of great minds in a communion of changing consciousness, when, in fact, the auditorium was something closer to The Great Minds' Reykjavik airline terminal, a stopover point on the great-circle route to awareness.

The nerve of them, at the checkout counter in the supermarket. I mean, they check YOU out. You should check THEM out. . . .

Jerry Rubin, the man who Grew (Up) At Age 37, is 40 now. Clearly he is no longer, as Jesse Kornbluth once profiled him, "Our Little Yippela." The man with a plastic name tag that read "JERRY/RUBIN/STAFF" announced that he's organizing a second Event in March, to examine "Money, Success and Creativity." This suggests some speculations with which I would like to wind up our sermon.

Stray Thought I: The media will no doubt busily cover Jerry's next Event. The press takes care of its own. Around hour 12, Event Time, I realized that I have been covering Jerry's Yips for 11 years now, ever since the March on the Pentagon. Just by making that occasion 1967's version of The Event, he gave Norman Mailer a book, and ultimately a Pulitzer prize. Over the years, Jerry has helped to sell countless copies of newspapers and magazines, and he has filled untold minutes of empty air time.

Stray Thought II: Maybe that's what The Event was all about. A be-in for the communications industry. Along with Jerry, we're going to keep the sixties going, right through the vacuum of the silent seventies and the empty eighties.

Stray Thought III: The Event was about more than The Event.

Stray Thought IV: In the sixties, the press was always more willing to address itself to Jerry Rubin's antics at the HUAC hearings than it was to actually *write* about HUAC—or the Vietnam War, or police Red Squads. And in true sixties tradition, there's not a whole lot in this piece about the concepts that were of real concern to the people in the auditorium—things like higher awareness and New Consciousness, if you can abide the phrase. George Leonard believes that this is the "Era of the Transformation," a transitional time in the organization of society and in the state of human consciousness as well. Bucky believes that we must accomplish this transformation if we are to pass our "Final Exam"—the test of our fitness to continue participating in the ecosystem of this planet.

Stray Thought V: These things did not loom large here because The Event didn't have all that much to do with them. That was the finest thing about the whole day. While it was easy to knock The Event, it was not at all easy to dismiss the people who had come to partake in it, or the moments the speakers made for them, or the feelings that they shared with one another.

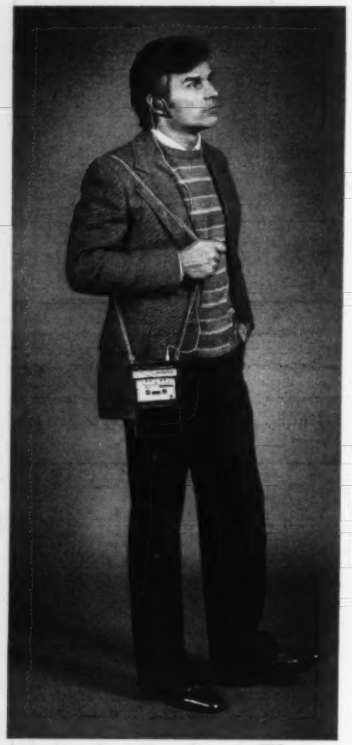
Perhaps the point is that, in the Transformational Journey, The Event seemed to be a whole lot farther from the finish line than The Audience.

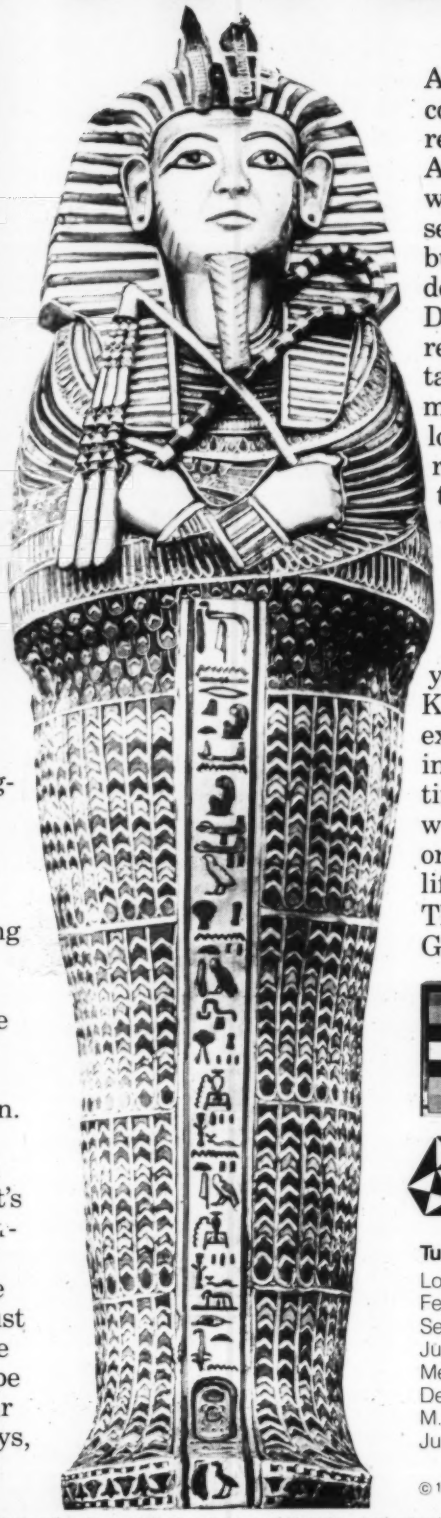
Did you ever open up a piece of wax paper in the back of the refrigerator, and find that there was nothing in it?

We will end our sermon, then, with a salute to The Audience. In the words of another inspired comedian, Ram Dass: "Hope starts the journey, faith sustains it, but it ends beyond both hope and faith." ●

Photograph by Martin A. Levick/Black Star

KING TUT LIVES.





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July 15–Nov. 15, 1978
Metropolitan Museum of Art, New York:
Dec. 15, 1978–April 15, 1979
M. H. deYoung Museum, San Francisco:
June 1–Sept. 30, 1979

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EDITED BY DAN BREWSTER

THE INSIDER

WHITE CRUDE

U.S. OIL GIANTS PUMP LIFE INTO RHODESIA

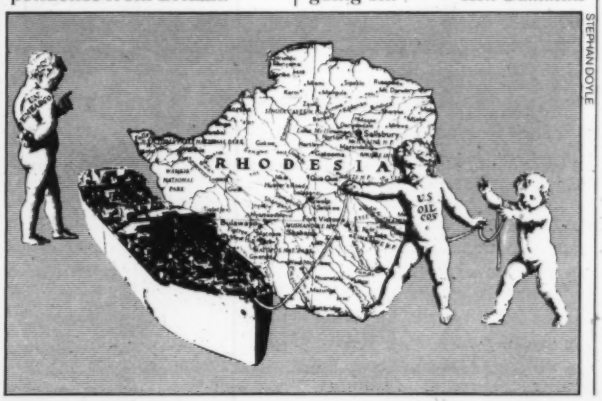
Lately, Great Britain has been bludgeoned in the world community for its part in breaking Rhodesian oil sanctions. But new evidence shows that at least three American oil companies have not only continually violated the U.N. economic sanctions against Rhodesia over the last 12 years, but have been crucial in keeping Ian Smith's white minority government afloat.

Jorge Jardim, a former Portuguese and Mozambiquan colonial oil official, has revealed that Mobil and the Caltex Petroleum Corporation (the latter jointly owned by Standard Oil of California and Texaco) collaborated in 1965—along with Dutch Shell, French Total and British Petroleum—to increase Rhodesia's oil reserves from a 24-day level to a 90-day level. This, in effect, saved the country during the crucial first days of its declared independence from Britian.

Officials of the international oil companies, says Jardim, then assured the Smith government that the oil would continue to flow despite U.N. sanctions—this approbation given in early 1966, after most of the world had declared the new Rhodesian government illegal. With little resistance, the multinationals calmly short-circuited the goals of official American foreign policy.

Jardim, whose Mozambiquan ports served as the entryway for most of the illegal Rhodesian oil until 1976, says that from 1968–1974, Caltex supplied more than 22 percent of Rhodesia's petroleum needs, while Mobil provided 21 percent. (Dutch Shell and BP accounted for half of all petroleum fuel supplied.)

Despite their nurturing lifeline, Mobil executives appeared before a Senate subcommittee in September 1976, and said they had no knowledge of sanction violations. They now maintain they were prevented by the Official Secrets Acts of Rhodesia and South Africa from finding out what was going on. —*Ken Cummins*



STEPHAN DOYLE

TAKEN FOR GRANTED

MILLIONS IN FEDERAL FUNDS GIVEN TO FRIENDS

John Rector has always depended upon his friends: He had served as a staffer to Birch Bayh (D.-Ind.) but after Bayh gave Griffin Bell strong support in his Senate confirmation hearings, Bell is reported to have repaid Bayh by naming Rector head of the Office for Juvenile Justice and Delinquency Prevention division of the Law Enforcement Assistance Agency. And once there, Rector used his big budget to help out a few of his own friends.

The INSIDER has been told that last June, over $100 million in LEAA funds remained unallocated, and, fearing a rescinding of future funds, Rector scrambled to get that money out—to quickly created projects of personal friends. In one case, Rector approved a $1.4 million grant to what he called "a philosophical associate," named Jerry Miller. Staffers characterize Miller differently: "one of Rector's closest friends."

The grant request was passed on to the outgoing acting LEAA head James M. H. Gregg who, having no clue what the grant was for, refused to approve it. (It turned out that the Miller proposal was part of a "child and custody grant" awarded on a discretionary basis.)

An internal memo, obtained by The INSIDER, shows $30 million in grants allegedly developed by Rector specifically to "dump" money that had been unspent. Wrote Gregg: "Let's recognize this for the cop-out it is."

Not only has Rector been attacked by Representatives Shirley Chisholm (D.-N.Y.) and Augustus Hawkins (D.-CA.) and Senator John Culver (D.-Iowa) for failing to properly disperse the money, but his staff has drafted a 15-point grievance charging Rector with "racism and sexism," and officiousness in assigning "excessive" and meaningless" work.

Rector's explanation: "This place is full of Nixon people. I was a critic of them and now they are getting back at me with Nixon tactics."

—*Ira Rosen*

Swyne

"YOUR COMMITMENT AND COMPASSION, YOUR HUMANITARIAN PRINCIPLES AND YOUR INTEREST IN PROTECTING INDIVIDUAL LIBERTY AND FREEDOM HAVE MADE AN OUTSTANDING CONTRIBUTION TO FURTHERING THE CAUSE OF HUMAN DIGNITY."
—SECRETARY OF HEALTH, EDUCATION AND WELFARE JOSEPH A. CALIFANO JR., IN A REFERENCE LETTER SUBMITTED BY CULT LEADER JIM JONES TO THE GUYANESE GOVERNMENT.

INSIDER

JERRY BE NIMBLE

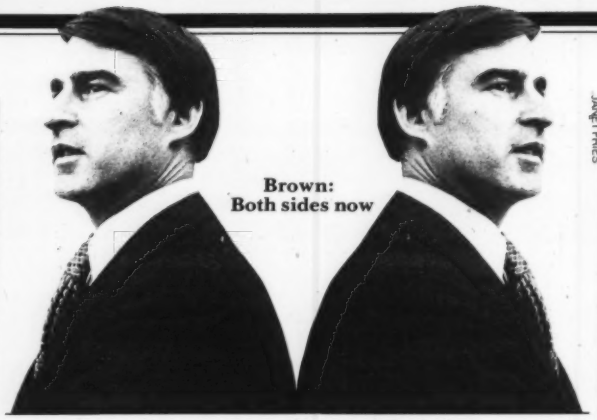
BROWN PREPARES FOR ANOTHER TURNAROUND

Almost immediately after Jerry Brown's smashing re-election victory—described by campaign manager Gray Davis as "riding the crest of the tax revolution"—top Brown aides began work on a "contingency plan" for yet another political about face by the nimble governor. Anticipating a recession within the next two years, Brown is preparing to jump off the Howard Jarvis bandwagon—making sure that when it's time for another New Deal the new Roosevelt will come from Sacramento.

Brown aides believe that a major recession would shatter the governor's dream of a taxpayers' paradise in California. Without continued large-scale economic growth, they say, the Golden State could be forced into a "New York-type situation" with the entire government intrastructure—choked by 13's restrictions—starved to collapse. "A recession," one top aide told The INSIDER, "would deny government the revenue it needs and change the political chemistry of the state. The attitude toward the tax revolution might change."

While considering a Presidential bid in 1980, Brown is trying to cope with both Proposition 13 and the possibility of a recession-related change in the public mood. His first step, sources close to the governor say, will be to "politicize" the state's finance office by replacing the present director, Roy Bell, a nonpartisan career bureaucrat, with Dick (one-time Jack in the Box hamburger king) Silverman, currently Brown's chief of staff—a move which will allow the governor greater flexibility in shifting his financial policies.

Whether Brown will enter the 1980 primaries as a tax crusader or the Zen FDR depends on the political weather report. "We are never frozen in our positions," says one key aide to Jerry Brown. "You know there's a limit to the era of limits." —*Joel Kotkin*



Brown: Both sides now

JANET FRIES

OLYMPIC SIZED PROBLEM

SWEDISH SPY DIES IN SOVIET PRISON CAMP

The government of Sweden is coming under increasing pressure to boycott the 1980 Olympics in Moscow unless the Soviets provide the answer to one of the most puzzling espionage cases in Cold War history.

The case, which has become a major cause celebre in Sweden, concerns Raul Wallenberg, a Swedish diplomat and International Red Cross official who entered Hungary in 1944 to negotiate the release of several hundred thousand Jews and war prisoners. According to Nazi hunter Simon Wisenthal, who has spent years investigating the Wallenberg case, the Swede managed to save at least 80,000 people at the same time the Red Army swept into the country; then Wallenberg disappeared without a trace.

The Swedish government has, for over 30 years, pressed the Soviet government for an accounting of Wallenberg's whereabouts—prisoners released from gulags during the past two decades have reported seeing Wallenberg in the Soviet prison camps. The Soviets, however, disclaimed any knowledge of the case until last year when Soviet officials privately told members of the Swedish government that Wallenberg was arrested in 1945, imprisoned, and died in captivity.

The Swedes were not completely satisfied with the answer, and two months ago, the government took an extraordinary step by declassifying several documents related to the case. The documents caused such a sensation that a number of private groups called on the government to boycott the Olympics unless they got the full story from the Soviets. Conveying the government position, one Swedish official said, "there is no plan to do that, at least not yet."

Meanwhile, The INSIDER has learned from CIA officials familiar with the case that Wallenberg was mixing intelligence duties with his humanitarian work on behalf of the British and the Americans by serving as a go-between for a separate peace deal between the then-fascist government of Hungary and the Allies. Furious, Stalin ordered Wallenberg imprisoned. Driven insane by his ordeal, Wallenberg was shunted from camp to camp, and died six years ago.

—*Ernie Volkman*

THEM'S THE BREAKS

NRC GIVES HELPFUL HINTS TO TERRORISTS

Uncle Sam is willing to help launch you on a new career in the exciting field of nuclear terrorism—for only $4.50.

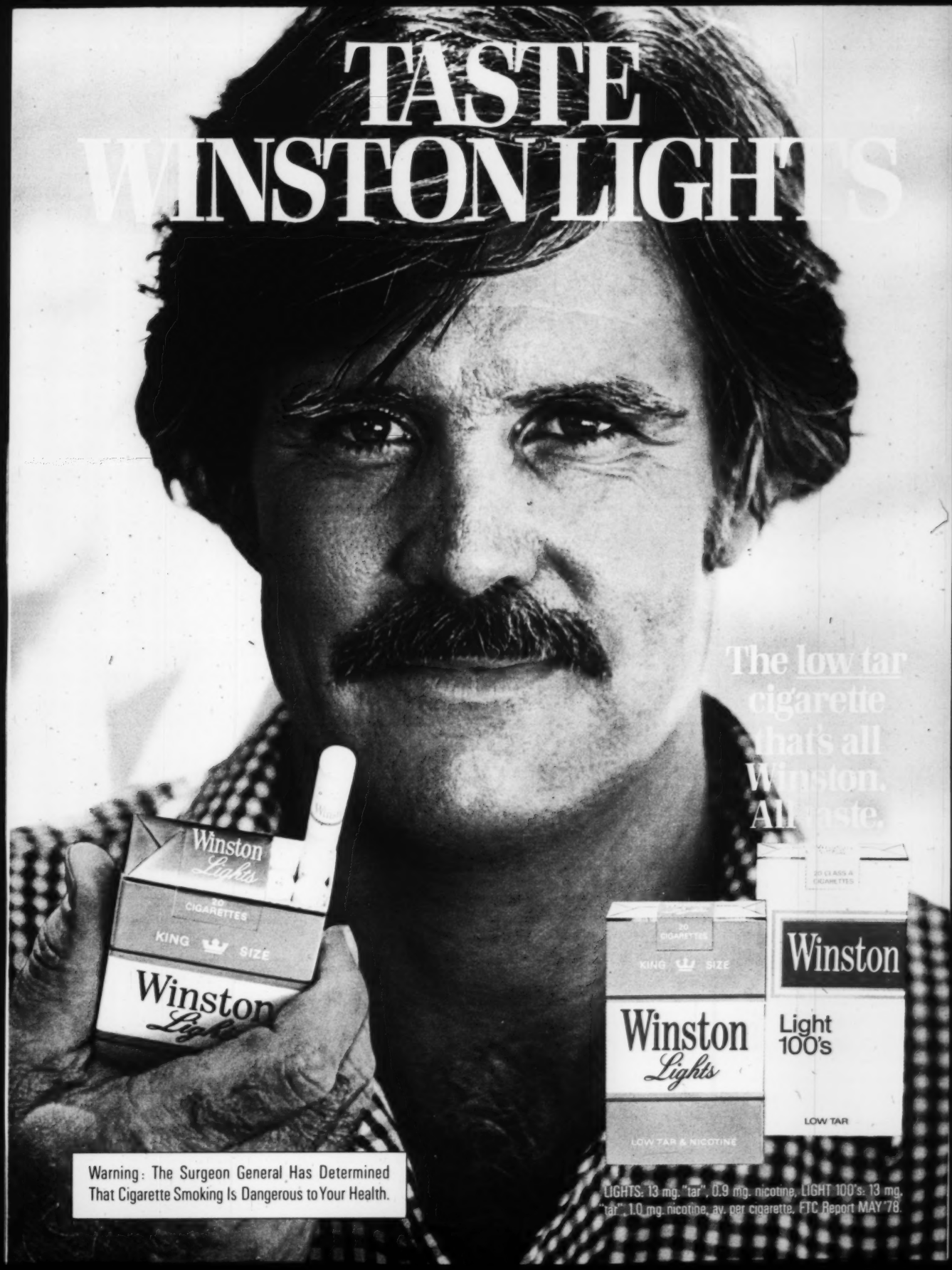
That's the price of *Barrier Penetration Database*, an innocuous-looking 48-page handbook prepared for the U.S. Nuclear Regulatory Commission. It might better be called "How to Break Into a Nuclear Power Plant."

Gates, roofs, ceilings, floors, doors, windows—the handbook illustrates 32 barriers typically found at nuclear installations, recommends what tools to use to break through them, and tells, down to the second, how long it should take. It will help you climb a barbed wire fence in under ten seconds or smash through a vault door in a minute and a half. And it's as easy to find as the nearest nuclear power plant.

The handbook, made public last July, was intended to help utility companies evaluate just how safe their plants were. Industry spokesmen say there's a lot more to plant security than physical barriers, and that they're pleased by the handbook's availability. But its authors, physicists at Brookhaven National Laboratory on Long Island, say they're uneasy—and so is the NRC.

"Practically speaking, the well-trained terrorist really wouldn't need this," said Robert Clark, chief of NRC's reactor safeguard licensing branch. "But to the amateur, who is trying to get his name in the paper, it might be useful." —*Glenn Frankel*

ADAM KURTZMAN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GREEN BERET TAKES AIM

COPS TRAINING CENTER TEACHES TALL TALES

An obscure federally funded police training center in San Luis Obispo, CA., has been quietly teaching cops from all over the western United States that the National Lawyers Guild, the American Indian Movement and the Black Muslims are dangerously subversive terrorist organizations.

The school is the California Specialized Training Institute, established in 1971 as part of the Pentagon's plan to use Vietnam counterinsurgency techniques against domestic radicals. More than 12,000 public agency officials, including police officers and soldiers from states mostly west of the Mississippi, have passed through CSTI classrooms.

The school's course on "Political Violence and Terrorism," initiated in 1976, is coordinated by James Stinson, a former Green Beret counterinsurgency expert. One of the lectures Stinson prepared for the course links the National Lawyers Guild, a lawful civil liberties organization, to both the Communist Party USA and the Weather Underground. Stinson erroneously claims that "Bernadette Dorn, later to become a Weather Underground fugitive, was a student organizer for the National Lawyers Guild assigned to the Students for a Democratic Society."

Stinson's lecture also alleges, again without proof, that three Black Muslim organizations, the World of Islam, Black Muslims themselves and the Nation Islam, are all terrorist groups similar to the New World Liberation Front and Symbionese Liberation Army. As evidence, he cites the March 1977 terrorist activity by Hanafi Muslims (an unrelated group) in Washington, D.C., and the still unresolved "Zebra" shootings in San Francisco during the early seventies.

As for the American Indian Movement, Stinson says that AIM leaders have met with members of the Palestinian Liberation Organization and the Irish Republican Army, thus "AIM is a revolutionary communist organization with ties and backing from international and domestic extremist groups and terrorist organizations."

—Bill Wallace

LARRY WEIL

BOTTOMS UP

BRONCOS CAUGHT WITH PANTS DOWN

Everyone in Denver is wondering which members of the Denver Broncos football team appeared naked on the cover of "Keys," team member Jon Keyworth's first album. The album cover features Keyworth in a shower room with a naked teammate and the sleeve reveals the naked rear ends of eight also unidentified Broncos, but Broncos they are—at least so says the album sleeve.

She posed for *Playboy*

LJS

Many in Denver consider the sporty porn to be somewhat indecent. The Target chain of discount stores refuses to display the record. "Some bigwigs came in and told us to take them right off the shelves," said one clerk. "You can still buy it, but its under the counter, like *Playboy*," said another.

But the Broncos front office is taking it all in stride. They say no action will be taken against the beefcake boys. Last September, however, when *Playboy* announced it would feature a spread on professional cheerleaders, the Broncos' Pony Express management hit the ceiling and claimed that any cheerleader appearing in the buff would be promptly canned.

But even before the magazine hit the stands, the two cheerleaders featured had cheated the management out of enforcing their double standard. One of the women had failed to make the team and the other had just been kicked off the squad after being arrested for rolling a drunk. She took a wallet belonging to a police decoy—all the while being filmed by a television news crew for a special on crime.

—Patricia Calhoun

EPIDEMIC PROPORTIONS

BOSTON DOCTORS TROUBLED BY TORTURE

A sign of the times: A group of Boston doctors has formed an organization to investigate the effects of torture.

The Amnesty International Medical Coordinating Group against Torture is an outgrowth of work by Danish doctors and a response to the growing use of torture by a number of governments. "It's now reached epidemic proportions," explains Dr. Michael Nelson, the psychiatrist who heads the group.

The group is developing a standard method of examination for detecting the emotional and physical stigmata of torture. Some scars—which range from recurring nightmares, to dislocated bones, to burns inside the vagina—are often difficult to pinpoint, explains Nelson. In January, the doctors will begin to examine the first of about 25 victims, mostly from South America.

According to Nelson, the goals of the group are to further define what the torture syndrome looks like; to familiarize both physicians and the general public with the extent and effects of torture and to present the results before national and international bodies.

And as for the victims, why are they willing to show their scars, to reopen old wounds, to relive painful memories? "It's the same motivation that drives the survivors of the concentration camps," Nelson says. "There's an enormous need, on their part, to bear witness."

—Craig R. Waters

MEDIA MANIPULATION

COWLES FAMILY TAKES CONTROL OF SPOKANE

If you challenge the Cowles family, you're unlikely to read or hear about it in the Spokane, Wash., news. In a case with important regulatory implications for centralized media ownership, the FCC has been conducting a field investigation into the holdings of brothers William H. and James P. Cowles. According to a study submitted to the commission by Terry Fancher, a Harvard Business School student and a former Spokane resident, the Cowles brothers, through a web of family trusts, have monopolized Spokane's media and used that control to further their business empire.

The Cowles own Spokane's only two newspapers, the *Spokesman-Review* (morning) and the *Spokane Daily Chronicle* (evening); KHQ-TV, the city's NBC affiliate and most widely-viewed television station; and KHQ-AM and FM radio stations. Through these holdings, according to Justice Department estimates, the Cowles family controls about 80 percent of all local daily advertising.

But the family's financial dealings hardly end there. The Cowles are also the largest holder of real estate in the core area of downtown Spokane—owning the land and buildings on the four corners of the city's busiest intersection. In addition, they own the area's only paper mill, as well as tens of thousands of acres of nearby timberland.

The Cowles brothers have maintained tight editorial control over their newspaper and broadcast corporations, according to Fancher, who filed an informal objection with the FCC to deny a license renewal for KHQ-TV. Fancher says the Cowles have appeared to use their newspapers to influence public opinion and thus local politicians on matters affecting their real estate holdings.

In some cases, according to Fancher, tenants of their buildings have been required, as part of their lease, to advertise in the family's newspapers.

The *Spokesman-Review* and the *Spokane Daily Chronicle* also appear to have enhanced the position of the Cowles broadcast stations. Fancher says KHQ-TV received preferential treatment in the newspapers' program listings and viewing recommendations. And, Fancher's sources claim, the Cowles threatened Spokane's public broadcasting station with a lawsuit after it aired a program dealing with the family's media dominance in the city.

The results of the FCC investigation—which itself represents an unusually aggressive step for the commission—probably will not be known for several months. The commission will decide either to grant the Cowles an immediate renewal of their KHQ license or to hold a formal hearing. The latter would indicate a tightening of the FCC's traditionally lax regulatory policies toward the local cross-ownership of newspaper and broadcast facilities.

—Michael Massing

V.P. LEFT SPEECHLESS

FEDS TAKE MONDALE BY SURPRISE

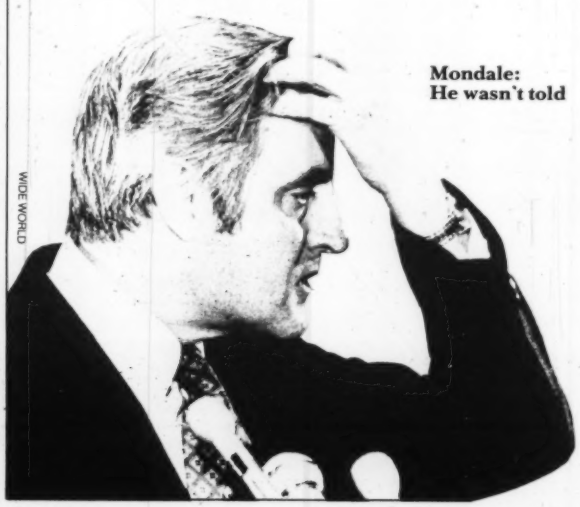
When two federal agents knocked at the door of California Teamsters Union local 70 two months ago, the union's office manager cheerfully let them in. With Vice President Mondale slated to deliver a speech at the local Democratic faithful in just two days, he figured they wanted to give the place a quick security check.

But the two G-men, who quickly threw the doors open to a whole swarm of federal investigators, weren't looking into security. They were part of a full-scale raid on the union hall by the local FBI and Organized Crime Strike Force, gathering evidence of labor racketeering and other offenses by the union leadership.

The raid brought a lot of red faces to local Democratic party leaders who hadn't been forewarned about the move, and they "just had to scramble like hell to get another place," one of them later recalled. The feds, it turned out, hadn't even told Mondale's Secret Service escort of their planned move because, according to one source, they were afraid the local teamsters might be tipped off.

The feds, meanwhile, were unconcerned about any embarrassment they may have caused Mondale. "I don't care that much about politicians anyway," one of them explained, "so I laughed my ass off."

—Paul Grabowicz and Bill Wallace



WIDE WORLD

Mondale: He wasn't told

WIDE WORLD

Morris: Reconsidering

MORRIS THE CHIEF?

SENATORS LASH OUT AT CARTER'S LIBERAL CHOICE

An alliance of the National Rifle Association, Anita Bryant adherents and Senators Strom Thurmond (R.-S. C.) and Jesse Helms (D.-N. C.) has probably succeeded in torpedoing President Carter's nomination of Norval Morris, a respected criminologist and dean of the prestigious University of Chicago School of Law, to head the Justice Department's controversial Law Enforcement Assistance Administration (LEAA).

Morris agreed to have his nomination withdrawn—while reserving the option of having it resubmitted when Congress reconvenes in January—following two days of acrimonious hearings last fall centering on his views favoring decriminalization of certain "victimless" crimes, such as prostitution, gambling and public drunkenness, in favor of regulatory controls. Appalled by these positions, expressed in Morris's 1971 volume, *The Honest Politicians' Guide to Crime Control*, Senator Helms shot off a telegram to the White House charging Morris with "abandonment of the moral standards of our country," and threatened a filibuster to block the appointment.

Morris, reached at his law school office, says he's "waiting for the dust to settle" before making any decision on whether to have his name resubmitted. But the guessing on Capitol Hill is that Morris will decline and that Homer F. Broome, Jr., a black Los Angeles police official, just confirmed as one of LEAA's deputy administrators, will get Carter's nod for the top spot.

—Dorothy J. Samuels

SILENT MAJORITY

GHOST VOTERS TURN OUT BIG IN CHICAGO

To the man in blue standing outside, the racket inside sounded like a pinball machine running at full tilt. Considering he was outside a polling place and no voters had gone inside for quite some time, Chicago patrolman James Jablonski naturally became curious.

When he walked over to the machine, Jablonski saw one man holding a fist full of voter applications and another opening and closing the booth to register votes. The ringing bells were the sound of the straight-party votes being registered.

"What's going on?" Jablonski asked the first man.

"We just got six more to do," came the annoyed reply.

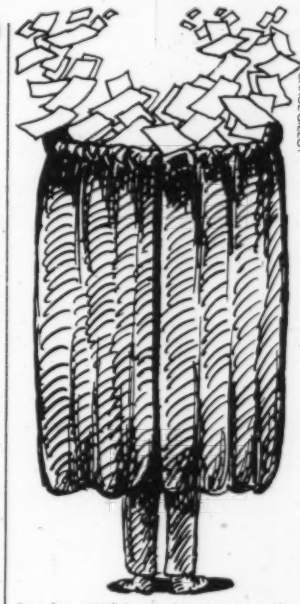
"Six more what?" Jablonski asked.

"These are ghost voters," replied Democratic 26th Precinct Captain Edward Zalienski, matter-of-factly. "You'd better wait outside, officer."

At that point, Zalienski pulled the policeman aside and flashed a wad of ten dollar bills.

Jablonski wanted no part of it. He called the state's attorneys vote fraud team which then arrested Zalienski and Robert Johnson, the assistant precinct captain. Curiously enough, Santos Quinones, a Republican election judge, was there throughout the entire episode. He too was arrested. Zalienski was charged with attempted bribery. All three were charged with three counts of voting more than once, two counts of tampering with election materials and two counts of ballot box stuffing.

All things considered it was business as usual in Chicago, a town with a checkered past when it comes to elections. One thousand calls were received by the state's attorneys team, but only 500 were considered serious enough to warrant investigation. Said Assistant State's Attorney Robert



CAROL GILLOT

Loeb: "This [election] was one of the most blatant examples of vote fraud in years. We could end up with hundreds of charges."

—Jane Sanders

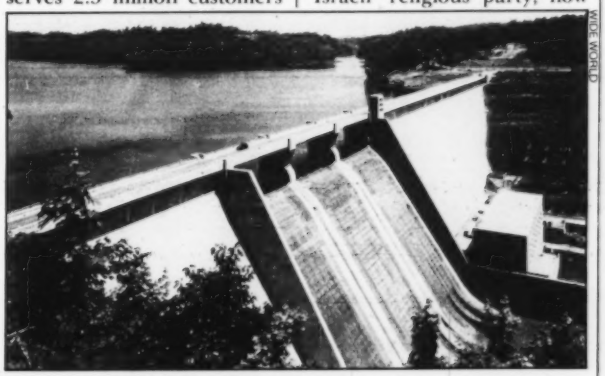
PLANTS CONTINUE TO GROW

PUBLIC UTILITY WANTS TOO MUCH POWER

The Government Accounting Office (GAO) has found that the Tennessee Valley Authority overestimated its power needs through the 1990s and that they can do without another generating facility until the turn of the century. The two-year study on the nation's largest public utility concludes that TVA, which serves 2.5 million customers in the southern U.S., has overstated the amount of power it needs by as much as 67 percent, primarily due to "unsophisticated methodology, which is seriously flawed as a basic planning tool."

TVA, like most other public and private utilities, has been projecting power needs based on what the demand for electricity has been in the past, ignoring the constraints of increasing prices and the effects of conservation. TVA discounts the study, which undercuts the basic assumption held throughout the utility industry, and awaits its second nuclear plant expected to be brought on line in 1990.

—Bill Bishop



WIDE WORLD

TVA hydroelectric dam: Overpowering

BETWEEN COURTS

RABBIS' TO DECIDE ON WHAT MAKES A STAR

The Israelis take their basketball seriously (it's second only to soccer in popularity). So when 6'11" American player Aulcie Perry signed up with the Maccabi Team in Tel Aviv two years ago, Maccabi fans regarded his arrival with nearly the same enthusiasm that Yankee fans once greeted the signing of Reggie Jackson. But Perry is now in trouble and it has nothing to do with his playing—he's been accused of not being Jewish enough.

Upon signing with the Maccabis, Perry, 26, from Newark's black ghetto, converted to Judaism. But Agudat Israel, an ultra orthodox Israeli religious party, now says that Perry's conversion was not properly sanctioned by orthodox rabbis; therefore, they argue, Perry is "not Jewish."

A storm of controversy has broken out over the issue and a religious court has now been assigned to rule on the case. Meanwhile, Perry awaits a decision on just how Jewish he really is.

—Ernie Volkman

A QUESTION OF ETHICS

SENATE DOES AWAY WITH SEASONS GREETINGS

The Senate Ethics Committee, in its ever-vigilant attempt to combat the spread of corruption in high places, has issued the following regulation: Senators may not, in any franked mail—the stuff which pours out of Senate offices without postage and is supposed to involve official business only—include a closing such as, "Have a happy holiday season." God forbid that a government-paid greeting be interpreted as soliciting votes and "frankly" speaking, that's not allowed.

—Pete M. Mitchell

WRITING ON THE WALL

PHILLY WOMEN PAINT PICTURE OF RAPE

It is a shocking new way of fighting rape, but last November a group of about 20 women, taking the name Save Our Sisters (SOS), descended on 40 spots in Philadelphia where rapes had been committed. With stencils, they spray-painted signs onto sidewalks and public walls, many of them in prominent locations, boldly stating "A woman was raped here."

"We're concerned about the oppression of women," says one member of SOS, adding that because of laws against defacing public property, "established women's groups would have a lot to risk in doing civil disobedient acts [like this.]"

—Mario Shao

NewTimes

A New Revolution in China

The country of nearly one billion people is burying its past and turning to the West. It may be the most important international development of the rest of this century

by Tad Szulc

A new revolution is sweeping China. Its targets are the isolationism and spirit of self-reliance that have characterized the country since the civil war that established the People's Republic almost 30 years ago. Its aim, in a word, is modernization—of everything. Already there are signs of it, some of them seemingly trivial, some profound. In the cities, for example, skirts and blouses are beginning to replace Mao tunics on young women; in Shanghai, more and more young men are wearing long hair and sprouting mustaches; couples in love hold hands with impunity; and a 1940s Gregory Peck movie has suddenly appeared at several cinemas. But these surface signs of the abandonment of old ways are matched on a much larger and much more important scale by a rush to establish new political alliances and to acquire Western technology and modern weapons systems. The revolution will surely affect most of China's population—which will soon reach the staggering total of 1 billion people. Obviously, it will reach far beyond China. It began only this year. How far it eventually will carry remains to be seen. However, it seems safe to say that a process of epochal change is under way. That process may well turn out to be the most important international political event of the rest of this century.

Some of the best clues to what will come in the future can be found in recent history, which is being rewritten or deliberately buried. For example, it is a common statement now in China that Mao Tse-tung's widow, Chiang Ching, "nagged him to death." This bit of petty vitriol is just a part of the continuing denunciation of the "Gang of Four," the extreme leftist group of which Chiang Ching was the leader. The denunciation signifies a broader effort to move away from the dogma of Mao—particularly his exhortations that China must go it alone in all things. Each day, Mao's cultural heritage is being eroded.

The official erosion began last August, when the new regime formally proclaimed the end of the Great Proletarian Cultural Revolution. No longer, for example, does Peking's *People's Daily* print one of the Chairman's thoughts in the upper corner of the front page where American newspapers commonly print the weather forecast. While many of Mao's principles are being ignored or changed, nothing seems so crucial as the abdication of his notion that the new society must be built on Chinese resources, Chinese technological advances and Chinese philosophy.

China certainly has the resources to accomplish her own transformation. Precise information is impossible to come by, but it is estimated that China has some 400 billion barrels in oil reserves—one of the largest pools in the world. China hopes to finance her modernization with oil and is turning to many Western countries—including the United States—to do so.

The old notion of totally centralized economic planning has been relaxed. Meanwhile, the Chinese have invented what they call "compensation trade" with Western capitalist corporations. In essence, this means joint ventures on Chinese soil in industry and petroleum exploitation under which the foreign partner receives payment in goods.

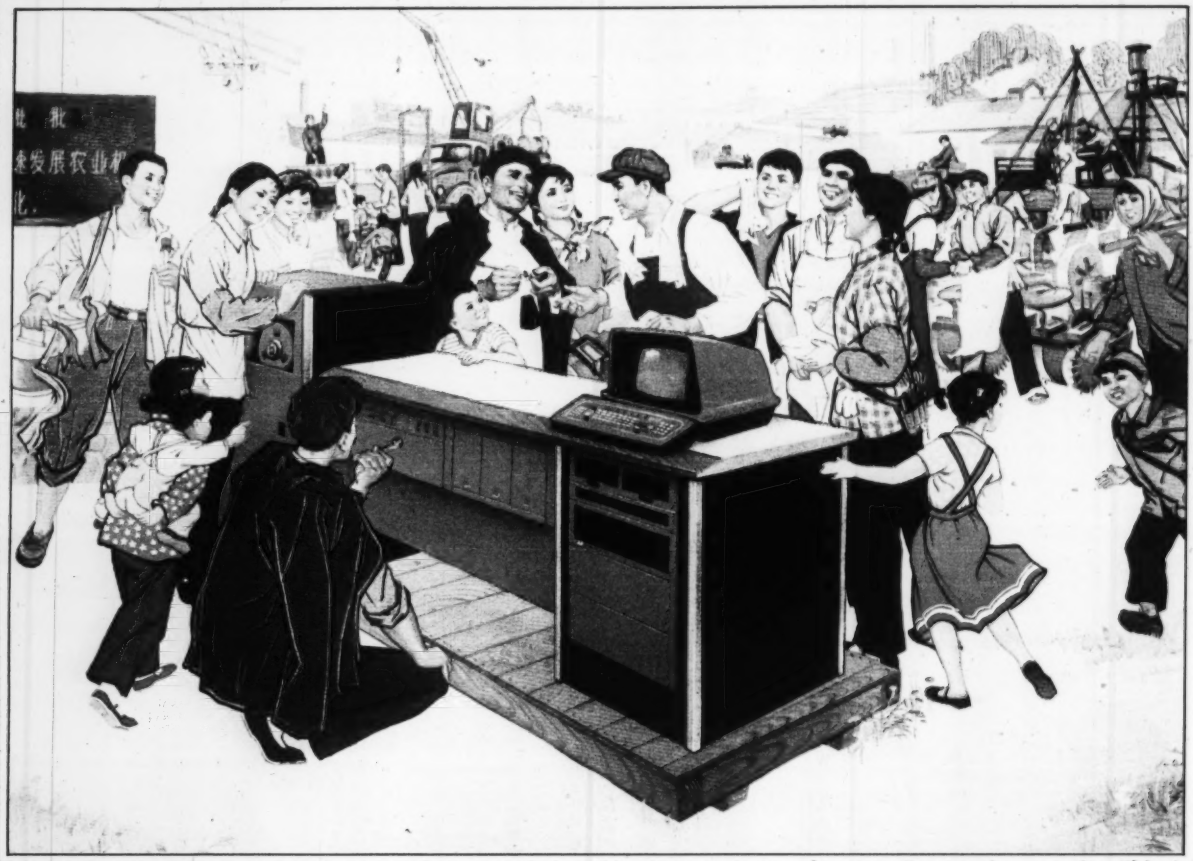
Suddenly the Chinese are everywhere. Their trade missions swap Brazilian steel for Chinese oil. They are bartering oil for products in Japan, the United States and Western Europe (with Italy the principal buyer), and negotiating purchases of a nuclear power plant in France and of complete manufacturing plants in West Germany. They are buying modern weapons from the French and the British. They are selling strategic tungsten and vanadium to the United States and importing vast quantities of American wheat, corn and soybeans. They have signed a $20-billion trade deal with Japan for the next decade or so and are ordering hundreds of millions of dollars' worth of Japanese cargo ships. An American chain has signed a $500-million contract to erect a network of modern hotels in China to accommodate the growing invasion of tourists and businessmen. Chinese technicians are learning oil technology in Texas and business administration in California.

Meanwhile, the abandonment of self-reliance is having a profound effect on China's military planning. Relations between the Soviet Union and China are now the worst they have been since the bloody frontier clashes along the Ussuri River in 1969, which at the time raised the spectre of a Soviet invasion or even a preemptive Soviet nuclear strike. Anti-Chinese invective from Moscow is at an all-time high, and a full 60 percent of its military budget has been allotted to its frontier with China. Each country keeps approximately 600,000 troops arrayed along the 4,500-mile-long border. Soviet military thinking emphasizes massive tank and artillery assaults—a continuation of the strategy and tactics it developed during World War II. Until very recently, as far as anyone could tell, Chinese defensive strategy relied upon almost literally drowning any conventional invading force in a sea of Chinese soldiers. The emphasis was on manpower—a single soldier armed with an obsolete rifle and a book of Mao's sayings, multiplied by millions—instead of equipment. Now, however, the Chinese want modern weaponry to confront the Russians—weaponry available only in the West. In recent months Chinese military teams have been crisscrossing Western Europe in search of hardware to modernize all branches of the armed forces.

Specifically, the arms buyers have recently concluded a $700-million contract with France for the delivery of anti-tank guided missiles, as well as anti-aircraft missile systems. They have also taken delivery of 30 French Alouette helicopters and an unknown number of

Tad Szulc is a Washington-based writer specializing in foreign affairs.

Illustrations by Page Wood



larger Super Felon troop-carrying choppers. In Britain, the arms shoppers are still negotiating the purchase of 80 Harrier vertical-take-off/landing jet fighters. The aircraft purchases point up China's glaring weakness in that area of weaponry. The mainstay of her air force now is the obsolete Soviet MiG-19; her own advanced F-9 fighter is still only in the prototype stage. All of these weapons are essentially defensive. There is little or no indication that China is developing any offensive strategy. Thus, for example, while a 20-man team of naval experts was touring French installations, another team was quietly buying diesel engines in England to strengthen China's coastal defenses.

It is a common statement now in China that Mao Tse-tung's widow, Chiang Ching, "nagged him to death"

Two men preside over the ongoing transformation of China. One is Hua Kuo-feng, 59 years old, who is the new Chairman of the Chinese Communist Party and the country's Premier. But the conceptual author of the change and its political powerhouse is First Deputy Premier Teng Hsiao-ping, a bouncy, smiling 74-year-old politician who was purged twice for "revisionism" in the last 12 years and who is now exacting his revenge. While directing all aspects of the modernization policy, Teng is also busy purging his old enemies in the party and government hierarchy.

Under Hua and Teng, Mao's devotion to ideology has been replaced by hard-eyed pragmatism. The rejection of Mao's self-reliance theme is being justified through conveniently discovered quotations from Lenin saying that, in order to advance, socialism must first learn a great deal from capitalism. Recently, a provincial leader in Szechwan buried Marxist-Leninists' arguments about socialist purity in China by announcing that "whatever measures help accelerate modernization and increase labor productivity at the maximum speed are correct."

After 30 years of regimentation, a growing sense of relaxation is developing in China. Last June, the new leaders ordered the release of 110,000 political prisoners. "Counterrevolutionaries" are no longer being exiled to rural communes for ideological re-education. To be sure, Communism remains China's guiding political force, but Hua, and especially Teng, appear to be looking for ways to modernize their Marxism along with the economy and the army.

This metamorphosis has enormous breadth. Around the same time that political prisoners were being released and new weapons systems purchased, another decree removed the prohibition on dancing in public—a practice considered a heinous ideological deviation not very long ago. With all this it is quite understandable that the West—and particularly the United States—is being portrayed in a whole new—and increasingly pleasant—light. Chinese newspapermen who visited the United States this summer produced glowing accounts of American wealth and technological progress, repeatedly stressing that almost every American family owns a television set. Those writers included the usual criticisms, but on the whole they presented a vastly more appealing America than the one the Chinese had grown accustomed to over the last three decades.

Foreigners—businessmen as well as tourists—are increasingly welcome in China because of the hard currency they bring with them. The ever-increasing numbers of visitors account for the recent deal signed with the Intercontinental Hotels Corporation, a subsidiary of Pan American World Airways. In

Illustrations by Page Wood

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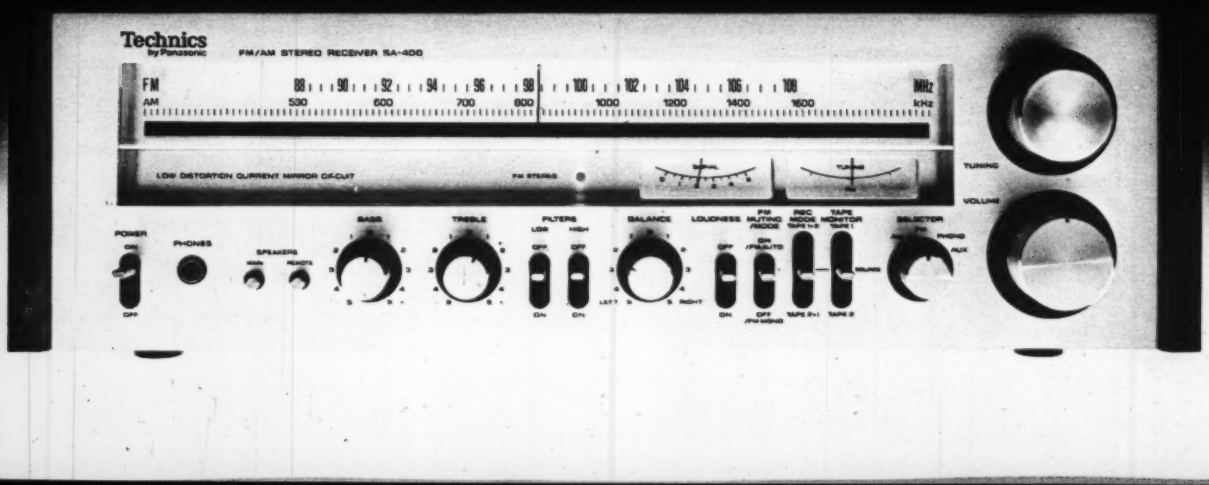


1977, 3,500 tourists visited China. This year the number should reach 15,000, and another 20,000 visitors are anticipated in 1979. Even with the new hotels there will still be a shortage of rooms, at least for the near future. At present there is such a shortage in Peking that some businessmen are put up in fairly rustic hostelries as far away as Tientsin, some 60 miles from the capital. In Shanghai the situation is somewhat easier because some of the old waterfront hotels have been reopened. One of them is the fabled Broadway Mansions, which before China's revolution was a rendezvous for the foreigners who exploited the old China and a setting for scenes of decadent glamor. The old days will never return, but the reopening of these old hotels evokes them. Tourism still has a long way to go, however. In many places hot water is available only a few hours a day, and most tourist amenities are absent. The Chinese are not unaware of these problems. No longer ideologically paralyzed, they want Americans actually to run the hotels to be erected by Pan American.

The Chinese clearly intend to please. A golf course is being designed on Peking's outskirts, though there is no indication that the Chinese themselves are taking to the arch-capitalist game. To expand travel, the Chinese airline has purchased three Boeing 747 SP jumbo jets this year, in addition to the ten Boeing 707 airliners it bought in 1973.

Just as China is accepting more and more travelers, its leaders have been busy this year traveling themselves. Soon after the basic decision to modernize was made at the National People's Congress in Peking last February and March, leaders fanned out to establish contacts and set negotiations in motion. Chairman Hua went to Iran and Eastern Europe. In Yugoslavia, he admired the self-management systems in factories and farms. Deputy Premier Teng flew to Tokyo to sign a new treaty and then held what had been unprecedented for a Chinese leader: a Western-style press conference. Teng then went to Thailand and Malaysia to cement Southeast Asian relationships. At the same time Foreign Minister Huang Hua accepted an invitation to visit London, and other senior officials went to Egypt. Nothing on this scale had ever happened before.

The results were quick in coming. By mid-1978, China's foreign trade was already running 30 percent over 1977 levels and was expected to reach $20 billion for the year. Trade with the United States has soared 240 percent in the first six months of 1978, and the probable figure for the full year will be near $1 billion—a pittance in terms of American world commerce, but clearly only the start. The 1978 totals, for example, do not include the jumbo jets to be delivered next year and other recent purchases. The Washington-based National Council for U.S.-China Trade believes that the curve can only go upward. In 1978 there were big purchases of American corn, wheat and soybeans, and suddenly China is becoming a major importer of American cotton. To assist farm exports, last September the Senate voted a limited Most-Favored-Nation tariff-treatment clause for China to make her eligible for short-term credits from the Commodity Credit Corporation.

The rejection of Mao's self-reliance theme is being justified through conveniently discovered quotations from Lenin saying that in order to advance socialism one must first learn a great deal from capitalism

But perhaps the most important of all these activities is China's desire to have American oil companies help her develop her petroleum industry. This plan is the key to the financing of modernization. Acting with the Carter administration's blessing, four American companies—Pennzoil, Union Oil Company, Exxon and Gulf (all hand-picked by the Chinese)—are currently negotiating oil projects with the Chinese government. Most exciting are the possibilities of major offshore oil finds. The plan is for the American companies to pay for the exploration as a risk venture; but if strikes are made, China will repay them in oil on a cost-plus-fee basis—an idea that would have been ideologically unacceptable in Mao's days. Furthermore, the Carter administration has agreed to let the Chinese buy advanced computer systems for offshore oil searches. Oil rigs are also being sold to the Chinese.

In her modernizing leap forward, China is demonstrating an incredible hunger for education—a recognition of the facts that she was left so far behind the rest of the world in technology during the Maoist period and that the Cultural Revolution shattered her educational system. This is another mark of the new pragmatism: In a stunning decision, Peking has announced that it plans to send at least 10,000 students abroad for advanced technological training by 1985.

In the 1978-79 academic year, some 700 Chinese students are expected to be learning at American universities; last year there were virtually none. The first students are already at the medical school of Temple University in Philadelphia. American administrators, unprepared for this Chinese influx, are rushing to set up special English-language courses for the new arrivals. Stanford in California, American University in Washington, D.C., Michigan State University and colleges in Texas and Pennsylvania are expected to be the principal centers of Chinese learning in the United States.

Having kept generations of young people in isolation for the last 30 years, China is evidently taking a political risk in exposing students to Western societies and ideas. But the Peking leadership has concluded that this risk is eminently worth taking: It is a precondition of modernization. This change, perhaps more than anything else, underlines China's determination to break out of the old molds.

The new revolution likewise rejects Maoist ideological inhibitions about financial dealings with the West. Before China's oil comes onstream in sufficient volume to pay for modernization—probably not before 1985—Peking must negotiate large-scale borrowings in international markets. Current oil exports are not sufficient. During November, for instance, the Chinese were discussing a $1-billion loan from a consortium of Japanese banks and seeking a similar loan from the Eurodollar market in London. International bankers believe that Peking will have no difficulty in raising as much as $10 billion in Western money markets almost at once. American banks—Chase Manhattan, Citibank and several Illinois and California banks, to name a few—are highly interested in lending to China.

All of this modernization and turning to the West raises enormous opportunities and challenges for the United States. One of the ironies of this extraordinary situation is that, if greater political wisdom had prevailed three decades ago, China might well have ended her hostile isolation from the West much sooner. According to recently declassified State Department files dating from 1949, Chou En-lai suggested to American diplomats that the United States assist China in steering an independent course between East and West. The telegrams show that Chou had contacted American officials seeking aid for the infant regime because, as the State Department writer put it, "China still not Communist and if Mao's policies are correctly implemented, may not be so for a long time," and "democratic China would serve in international sphere as mediator between Western powers and the USSR." This new infor-

Shopping Around: A Chinese military team inspects French weaponry

Young Lovers in Peking: Holding hands in public is no longer a sin

mation raises tantalizing questions about what might have been—and gives a new perspective to the old question of "who lost China." It also points up the need for American policy makers to respond wisely to this latest Chinese revolution.

The new Chinese revolution has left the United States far behind in dealing with the quickening march of events. As one senior American official quite familiar with China confessed in a recent private conversation, "We haven't yet been able to comprehend and digest fully what's happening there—except to recognize that we are dealing with an extraordinary and irreversible situation."

Consequently, American policies are uncertain, hesitant and often contradictory. They are, of course, caught up in the dilemma of keeping relations with both the Soviet Union and China on a reasonably even keel, avoiding taking sides openly despite the evident temptation on Washington's part to play more actively what has become known as the "China card" against the Russians. Certainly, the Administration does not wish a return to a cold war with the Kremlin or any undermining of the present negotiations for a new strategic arms limitation agreement (SALT II); the realities of the nuclear balance of terror cannot be lightly discarded.

The Administration grudgingly agreed to the sale of "defensive" weapons to China by Western Europe, but it has ruled out American military supplies. It is assisting Peking in the technology of modernization, but it still eschews political "normalization" with the Chinese—the establishment of full-fledged diplomatic relations—because President Carter remains unwilling to sever diplomatic ties with the Nationalist regime on Taiwan, as demanded by the People's Republic. And, deep down, the United States may not wish China to turn into the world's third superpower.

"Normalization" is of enormous political importance to Peking, but the Carter administration is not ready to budge on Taiwan, although it has been sharply reducing the American military presence on the island and has turned down a Nationalist request for modern warplanes. The idea is to prevent Taiwan from acquiring any offensive capability against the mainland—just as Washington refuses to sell arms directly to Peking to discourage pressures on the Taiwanese. At the same time, however, Washington politely refused Chinese suggestions for a "Japan formula" under which formal diplomatic ties with Taiwan would end, but economic and cultural relationships would be maintained.

This is justified in terms of domestic politics—conservatives and others are certain to oppose violently any move to withdraw support from Taiwan—and of our delicate relationship with the Soviet Union. Indefinitely, then, relations will continue to be conducted through diplomatic "liaison" missions in Peking and Washington (this a convenient euphemism for embassies, inasmuch as the missions are headed by ambassadors and are large establishments). In Washington, for example, the Chinese bought and rebuilt the old Winter Park Hotel to serve as living quarters and diplomatic offices for their mission. Presumably out of security concerns, the Chinese eschewed local labor and imported an entirely Chinese construction crew. Visitors have never seen the upstairs living quarters, but the downstairs public rooms are finely decorated in a modern Chinese style. As could be expected, the banquets served there are enormous and splendid.

The Administration has been playing something of a double game with Peking. It has been sending signals that "normalization" may ensue if China acts rapidly to expand economic and cultural ties with the United States; but now that the new revolutionaries are doing precisely that, the Administration has fallen back on loyalty to Taiwan. This could be a dangerous game. In the long run it could undermine those proponents of the opening to the West such as Deputy Premier Teng. Old ideologues are still around, and Teng cannot risk being proven wrong in his gamble to shift the Chinese outlook toward the

Photographs, Sygma

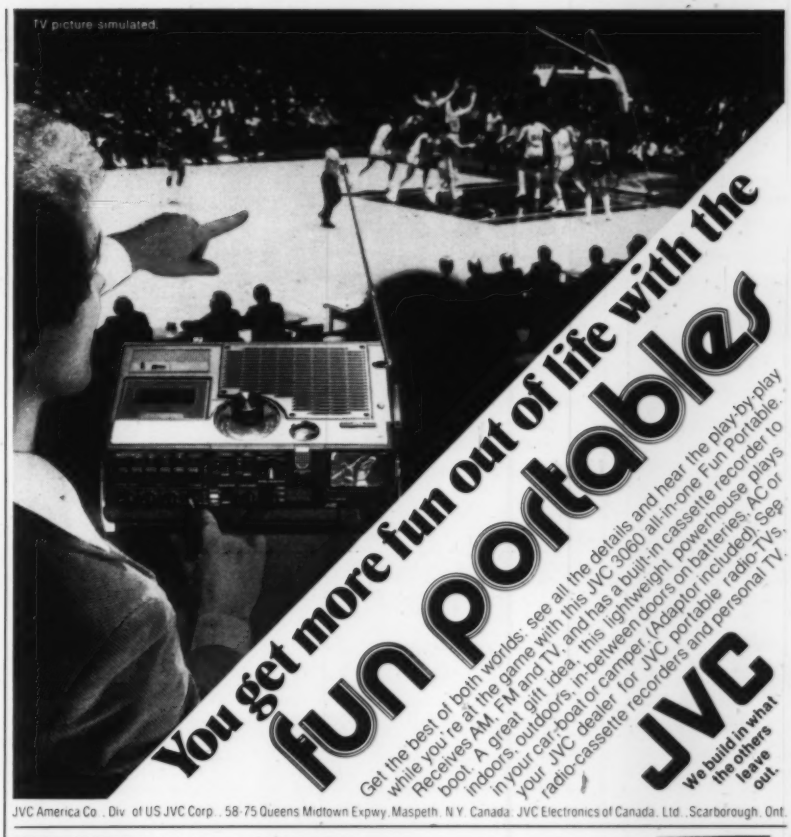
West for its modernization needs.

Nevertheless, Washington has been helpful to China in its quest for modernization. Energy Secretary James Schlesinger spent several weeks in China this fall, committing the United States to cooperate in the construction of a 25,000-megawatt power project on the Yangtse River, in the exploitation and gasification of coal and in a geological search for oil. There will also be aid in nuclear physics as related to the production of energy. Schlesinger was followed by Agriculture Secretary Bob Bergland, who sees China as a fantastic potential market for American farm products. Last July, White House science adviser Frank Press and National Aeronautics and Space Administration official Robert Frosch negotiated scientific cooperation with China. Frosch was the first foreigner to be taken to the Chinese satellite-launching site; a few months later, Washington announced it was selling China a communications satellite.

Meanwhile, the question of Soviet response to this new Chinese revolution remains crucial. Thus far the revolution has triggered furious responses, bordering on hysteria. Soviet leaders see—not wholly incorrectly—a grand design on the part of China to modernize internally and simultaneously to assert a predominant position of influence throughout Asia. The Russians understand that the Chinese are seeking new military hardware to make China invulnerable as soon as possible to the ever-present and still overwhelming Soviet military threat. The Chinese have a small nuclear arsenal, but in conventional arms they are stunningly inferior. This is why Moscow has been vociferously protesting Western European plans to sell weapons to Peking. As Belgian Foreign Minister Henry Simonet remarked in a recent conversation, "Hardly a day goes by without a Soviet protest or warning about arms for China. . . . It's an obsession." French, British and West German foreign ministries have had the same experience.

The flashpoint now in Soviet-Chinese relations is Indochina. In November Moscow signed a friendship treaty with Hanoi—clearly establishing an anti-China military alliance. Moscow takes Vietnam's side in the year-long war with Cambodia, which has Peking's backing. At the same time there are growing clashes on the Vietnam-China border. In short, Southeast Asia is the prize in the current phase of the Soviet-Chinese contests.

Will Moscow in the end decide to accept the dynamics of history, or try to block it even at the cost of an Asian conflict with awesome consequences? It does seem certain that China presents the most important challenge in world politics for the rest of this century. ●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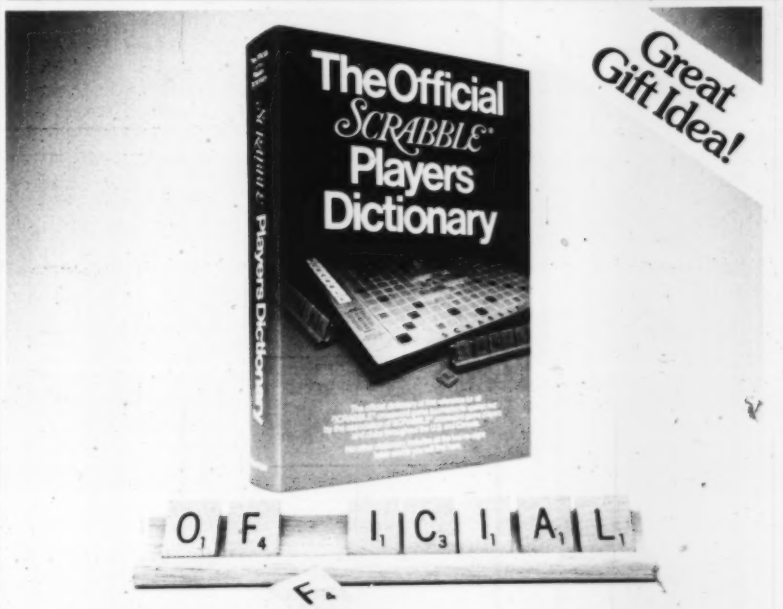
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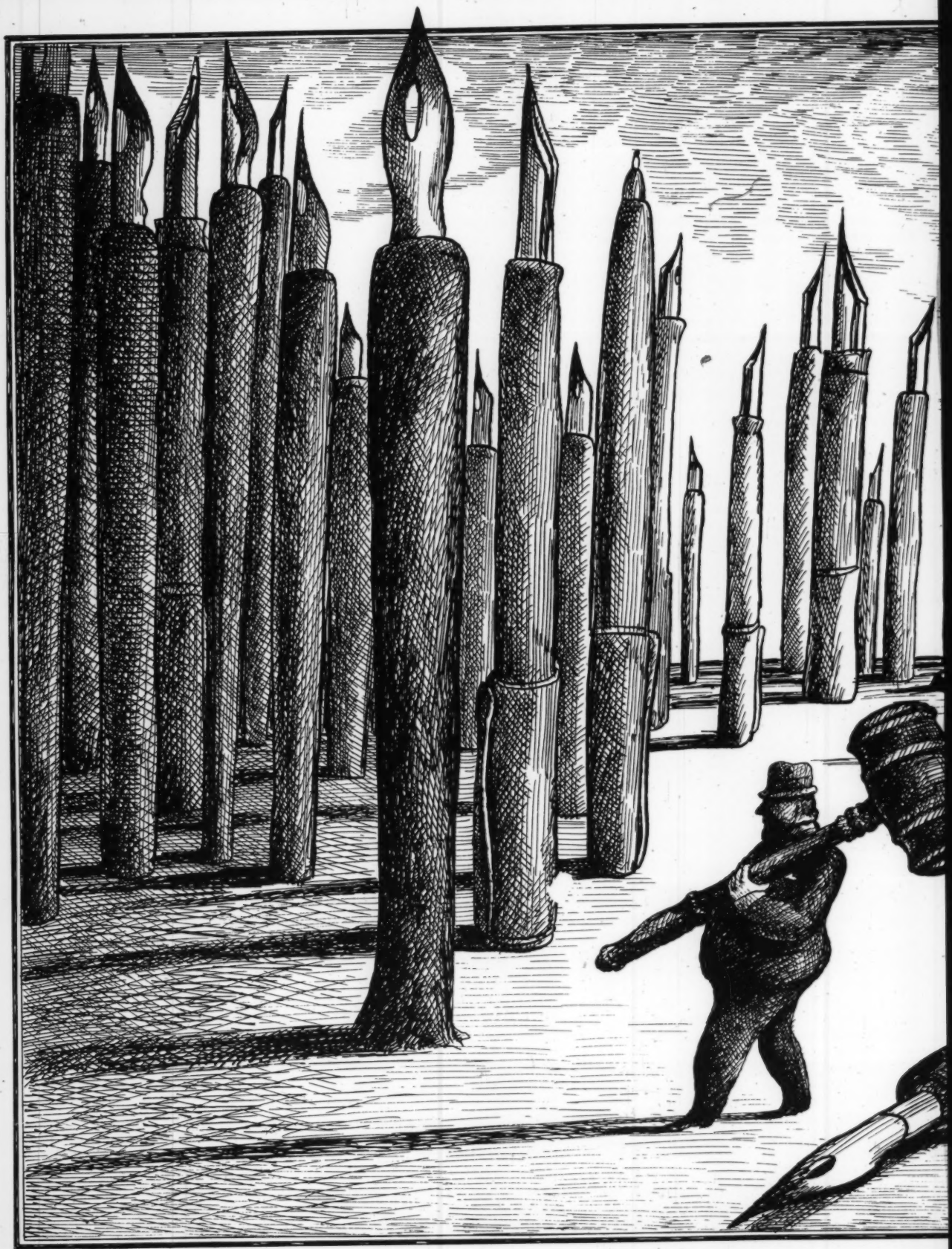

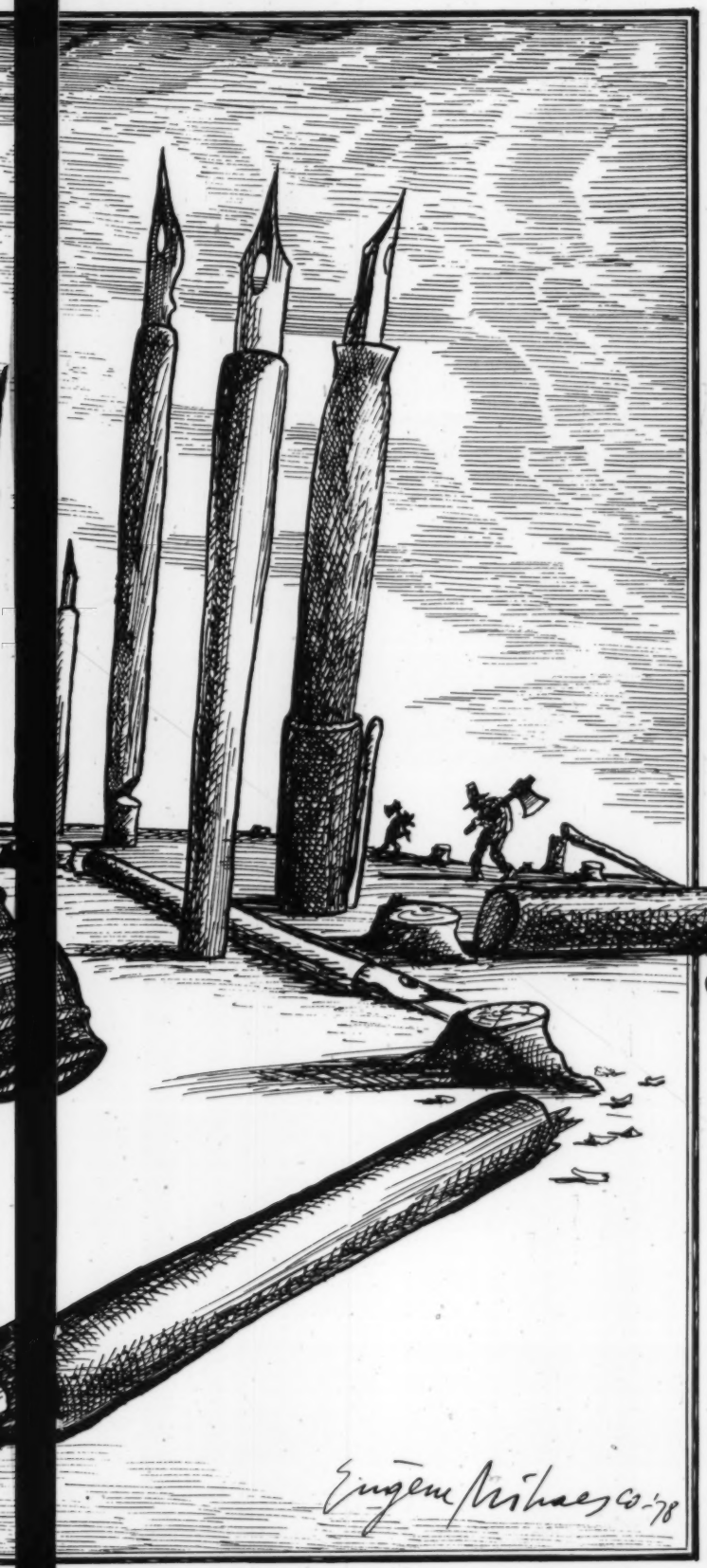

The Freedom of the Press Under Siege

The courts have abridged the First Amendment to such an extent that, were Woodward and Bernstein investigating Watergate today, they could be sent to jail for protecting the identity of Deep Throat

by Robert Friedman

"Let me tell you about freedom of the press," the cabdriver volunteers as we turn onto Constitution Avenue. "I don't have much respect for the *fourth estate*." The last two words resonate with a contempt normally reserved for poisonous snakes or mass murderers. "You remember during Vietnam when a guy wrote this story about an American base where the fortifications were only one sandbag deep?" I profess ignorance. "Well, the day after that story was in the papers, the Vietnamese attacked the base. At *exactly* the point he had said the sandbags were weakest. A lot of our boys were killed on account of that story." He glares at me through the rearview mirror. "You want to know what I think? They should've hung that reporter by the balls."

My destination, the Supreme Court, is no sanctuary for a reporter in distress. The supposed guardians of the Bill of Rights are on vacation this late summer day in the ninth year of Warren Burger's reign. Their building is in disrepair; the flagpoles are in need of paint; the white marble steps are turning yellow; everywhere, workmen are busy polishing, scouring, patching and mending in preparation for the start of the Court's fall term.

The first thing you notice when you enter the building is a plain wooden sign with a single word hand-lettered in

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Robert Friedman was editor of MORE: The Media Magazine *and is now a New York-based freelance writer.*

Illustration by Eugene Mihaesco; Photograph by Ted Cowell/ Black Star

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Some of the other automobile manufacturers are fond of showing their cars tearing around a test track or running an obstacle course full of pylons.

And that's fine with us. We have a test track at Honda, too. But stop and think a minute. When was the last time you had to avoid a pylon? The real world isn't pylons. It's potholes.

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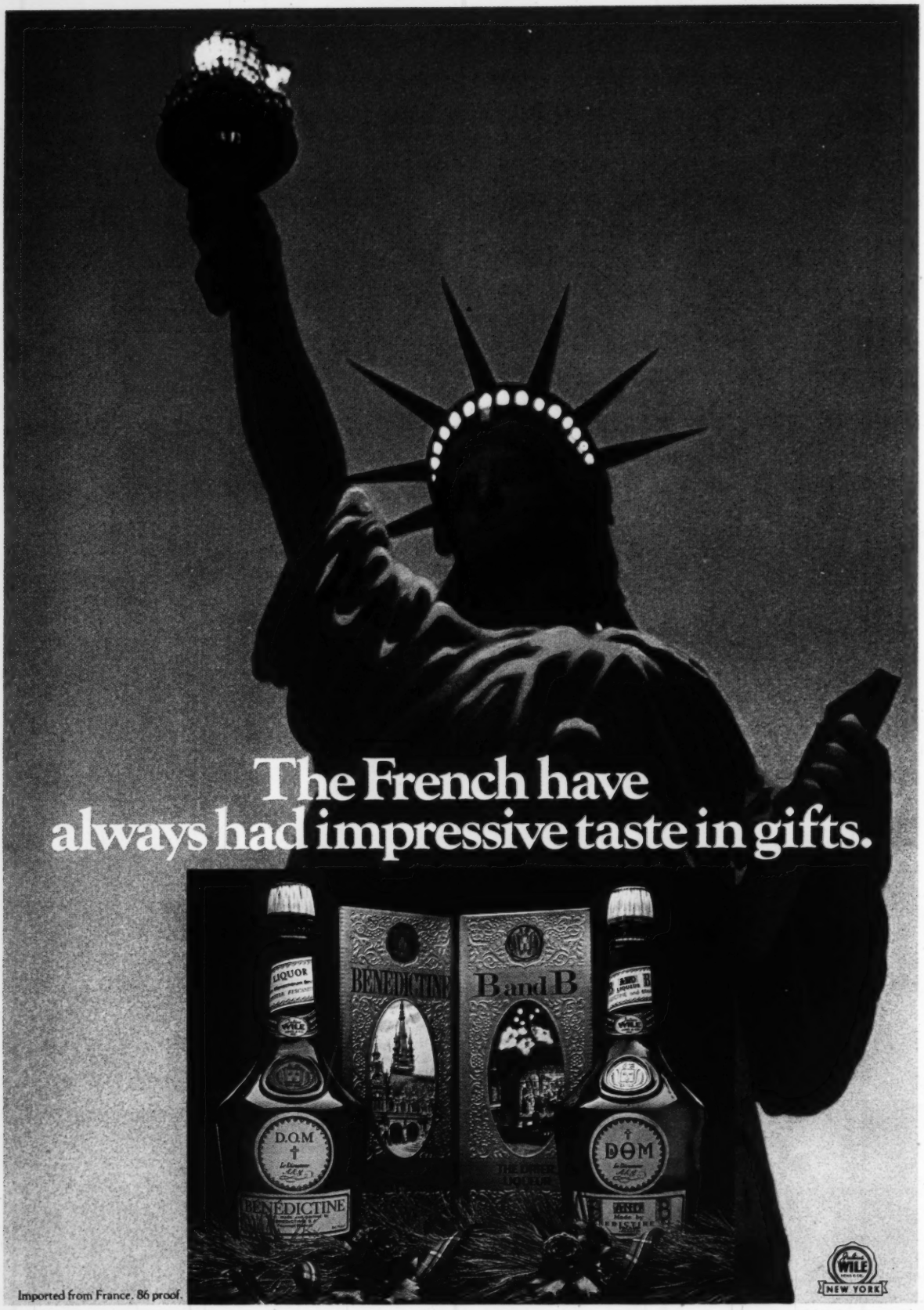
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gold: SILENCE. It is a reminder that Justice, though blind, is not deaf. Even within these marble walls, there are limits on freedom of expression.

Of course, the principles of freedom of speech and press, enshrined as inviolable in the First Amendment, have always been subject to trespass. John Milton's *Areopagitica*, an attack on 17th-century English press licensing, was a ringing defense of free speech for all, *except papists and atheists*. Thomas Jefferson's proposed draft of the First Amendment guaranteed freedom of the press to all, *except those who publish "false facts."* Supreme Court Justice Oliver Wendell Holmes upheld the right to speak all words, *except those that "create a clear and present danger."* Today, it is against the law to knowingly print falsehoods about public figures, to cast private individuals in a false light or to distribute obscene books that fail to meet community standards of acceptability. That simple First Amendment command, "Congress shall make no law ...abridging the freedom...of the press," has had as much effect preventing government interference as the first commandment handed down to Moses has had preventing war.

"The Constitution...establishes the contest, not its resolution," Supreme Court Justice Potter Stewart said of the relationship between the press and the government in a speech at Yale Law School in 1974. That contest has since turned into a battle being fought in newsrooms and on courthouse steps across the country. And almost everywhere the press is losing. If men like my cabdriver were judges, the press wouldn't be faring much worse. Count the recent casualties:

- In May, the Supreme Court ruled that government agents, looking for criminal evidence, may obtain a warrant to search a newsroom and examine photographs, notes and research files.
- In June, the Court decided that, under the First Amendment, the press is not entitled to any rights that ordinary citizens do not share and consequently may be denied access to prisons.
- In July, the Court held that the government may censure a radio station for broadcasting "indecent" words at times when children are likely to be listening.
- In August, a U.S. appeals court ruled that police and government officials, in the course of criminal investigations, may secretly subpoena the long-distance telephone records of reporters and news organizations.
- In September, the New Jersey Supreme Court upheld the jailing of a reporter who had refused to turn over all his notes to a judge in a murder trial.
- In October, the Supreme Court heard arguments in a libel case that could lead to a decision requiring reporters to answer questions about what they were thinking when they prepared a story.

If the health of the First Amendment's free press clause is measured by the extent of the restrictions placed upon it, the diagnosis today is alarming. Two separate but equally pernicious tendencies have infected the judiciary in recent years:

It is becoming harder for the press to investigate the government. The Supreme Court decision allowing prison officials to bar the media, a New York Court of Appeals ruling last December allowing judges to exclude the press from some pretrial hearings (the case is currently on appeal to the Supreme Court) and a number of lower-court decisions allowing government officials to withhold information on the grounds of secrecy or privacy all serve to protect the government from press scrutiny.

If the current trend continues, reporters will be kept out of jail when they want to get in and thrown in jail when they want to get out

It is becoming easier for the government to investigate the press. Warrants to search newsrooms, subpoenas to examine telephone records and contempt citations to force disclosure of reporters' confidential sources and notes threaten to turn the press into an investigatory arm of the police, to gag future Deep Throats and to undermine whatever minimally adversarial role the press now plays as a check on government.

In short, if the courts continue to follow these two ultimately convergent paths, reporters will be kept out of jail when they want to get in and thrown in jail when they want to stay out.

In Pursuit of Farber

"Pursuant to the subpoena *duces tecum* served on you June 2, 1978, will you now produce for the court all notes, memoranda, interviews, manuscripts, etc., pertaining to your investigation of Dr. Mario Jascalevich?"

"In accordance with my rights under the New Jersey and New York Shield Laws, and under the First Amendment, I respectfully decline to comply with the subpoena."

So begins another round in the continuing battle between a tenacious defense attorney and a defiant reporter this September morning in a Hackensack, New Jersey, courtroom. Some 20 times, Raymond Brown, representing a doctor on trial for murdering three patients with overdoses of the muscle relaxant curare at a New Jersey hospital in the mid-1960s, asks for the documents he believes his client is entitled to see under the Sixth Amendment. Some 20 times, Myron Farber, a reporter for *The New York Times* whose articles had led to the doctor's indictment, refuses to turn over the documents he believes he is entitled to withhold under the First Amendment.

The sterile Hackensack courtroom of Judge William A. Arnold is as inhospitable a place to make a First Amendment stand as one could imagine. The longest-running murder trial in the state's history—it opened February 27—has taxed the patience of the jurors (as well as their pocketbooks: they are paid only $5 a day) and the intellectual capacities of the judge. A man of infinite patience—he says he is prepared to let the trial go on for two years if necessary—Arnold seems to have limited tolerance for principles of any sort. He is the kind of judge to whom nothing matters so much as the authority of the legal process, yet who exercises so little authority in his own courtroom that the proceedings before him have become hopelessly entangled. The First Amendment, insofar as it constitutes a challenge to his authority, weighs lightly on his scales.

This is Raymond Brown's home court, and he plays the advantage masterfully. The 63-year-old defense attorney with a fondness for red suspenders, suits two sizes too large and courtroom histrionics has made the most of a weak judge whose torpor allows Brown to call the shots; an inexperienced prosecutor whose whining objections are rarely sustained; a jury whose appetite for conviction must diminish with each passing day; and an audience whose admiration is unfailing. Considered one of the best criminal lawyers in the state—he has handled numerous civil rights cases as one-time counsel for the NAACP and has defended several former New Jersey mayors on extortion charges—Brown is a man obsessed, a courtroom Ahab.

Myron Farber is his Moby Dick. Since he obtained a subpoena in June for all of Farber's materials on the Jascalevich case, Brown has pursued the *Times* reporter relentlessly through numerous New Jersey, New York and federal courts. His quest for Farber's notes has set the Jascalevich trial adrift and now threatens to capsize the New Jersey Shield Law, the First Amendment and the very practice of investigative reporting.

It is not surprising that Brown set out after Farber. In 1975, the *Times* reporter conducted a six-month investigation

Present When the First Fence Fell: In 1972, the Supreme Court held that journalists Earl Caldwell (left), Paul Branzburg (center) and Paul Pappas had to appear before grand juries investigating possible crimes.

into a series of 13 unexplained deaths at Riverdell Hospital in Oradell, New Jersey. His front-page articles in early 1976, claiming that a "Dr. X" had murdered patients with curare, aroused the Bergen County prosecutor to reopen a dormant investigation, and ultimately led to the indictment of Dr. Jascalevich a few months later.

Brown contends there was more to Farber's investigative reporting than meets the eye. As he put it in one brief, "Farber ... collaborated with the State's prosecutor to concoct charges of murder against an innocent citizen for pecuniary gain and to advance their careers." The available evidence to support such a conspiracy theory is scant. The prosecutor did give Farber free run of the state's medical files on the case, and Farber admits he gave the prosecutor a copy of a statement by Dr. Jascalevich that curiously had been missing from the prosecutor's files, but which Farber had obtained from another source. Hardly enough to convince a jury that his client had been framed.

But, Brown argued, the only way he could prove this theory, and thereby effectively defend his client, was to be allowed to inspect Farber's notes—all of Farber's notes. To deny him this opportunity, he said, would deprive Dr. Jascalevich of his Sixth Amendment rights to compel testimony and to confront his accusers. Judge Arnold, persuaded by Brown's logic, ordered that the subpoenaed documents first be turned over to him for an *in camera* examination to determine their relevance to the case.

And there the matter might have ended had Farber been an ordinary citizen. (Farber's literary agent and his book publisher both complied with similar subpoenas.) But Farber is not, he maintains, an ordinary citizen; he is a professional journalist and thus entitled to certain privileges shielding him from subpoenas that would force him to disclose confidential sources and information. The New Jersey Shield Law, for example, says that reporters have a "privilege to refuse to disclose, in any legal or quasi-legal proceeding ... a. The source, author, means, agency or person from or through whom any information was procured ... and b. Any news or information obtained in the course of pursuing his professional activities whether or not it is disseminated."

Citing both this apparently absolute newsman's protection and the First Amendment, Farber refused to comply with the subpoena. His lawyers argued that the request was too broad, that to relinquish the documents, even to Judge Arnold for an *in camera* inspection, was a violation of his reporter's privilege, and that Farber was at least entitled to a hearing on these constitutional and procedural issues before being thrown in jail for contempt.

"If I give up my file," Farber told New Jersey Superior Court Judge Theodore Trautwein before being sentenced in late July, "I will have undermined my professional integrity and diminished the credibility of my colleagues. And most important, I will have given notice that the nation's premier newspaper is no longer available to those men and women who would seek it out—or who would respond to it—to talk freely and without fear."

Neither Judge Trautwein nor any of the other New Jersey courts that upheld him seemed to care much about the loss to the "nation's premier newspaper," the "diminished credibility" of Farber's colleagues or, apparently, the New Jersey Shield Law. Farber's defiance cost him a contempt citation, 39 days in jail (he was reportedly the first *Times* reporter ever incarcerated in the line of duty), $285,000 in fines against his paper and enormous legal bills.

The subpoenaing of Farber's notes, while it did not earn Brown many friends in the press, was a brilliant defense ploy. By playing on latent public and judicial hostility toward the press, Brown was able to portray his client as a victim of powerful media interests. "I speak for one man fighting for his life against the hegemony of the press," he passionately told the New Jersey Supreme Court during oral arguments in Trenton in early September. It was as if Myron Farber and *The New York Times*, not Mario Jascalevich, were on trial.

While there was a possibility Brown might find something useful in Farber's notes—evidence to further his charge of collusion or conflicting statements made by sources that could be used to impeach their testimony as witnesses—the subpoena may have had another purpose. By casting the net wide enough ("all statements, pictures, memoranda, recordings, and notes of interviews") to enable him to conduct a fishing expedition, Brown was sure to encounter opposition from Farber and the *Times*. And the more Farber resisted, the more it would appear to judge and jury as if he were withholding valuable material from the defense and obstructing Jascalevich's constitutional rights. Ironically, Brown may very well have been counting on Farber's principled stand to get his client off the hook—to provide the grounds for a mistrial, a dismissal or an appeal.

Such is the dilemma Farber finds himself in on the witness stand this September morning in Judge Arnold's courtroom. The more he pleads the First, the more he incriminates himself. He is at Brown's mercy, much like witnesses before Congressional committees investigating subversive activities in the 1940s

Photographs L. to R.: UPI, Jon Webb/ Courier Journal, WTEV

and 1950s, who were damned if they sought protection in the Fifth Amendment and damned if they didn't. Despite Farber's attempts to be cooperative—he has responded to virtually every question put to him by Brown, except those asking for his notes or the names of his confidential sources—he does not strike a good impression. In the sketches by the courtroom artists, Farber, with his beard and longish hair, always looks Christ-like. But in the eyes of the jury, this press martyr must appear somewhat arrogant. When he says, rather testily, "I stand behind what I wrote in *The New York Times*, as I always will," he sounds superior; when he responds to a question about the negotiations for the book he is writing on the case with "What my agent did was out of the realm of my knowledge," his naiveté is unconvincing.

His imprisonment and his continuing defiance of every court in the state have given Farber an aura of self-righteousness that Brown skillfully turns to his advantage. At one point, after Farber has again asserted his reporter's privilege (the very act of claiming a testimonial privilege can be made to seem arrogant), Brown lashes out:

"Without turning over his documents, Mr. Farber can testify as he sees fit. He may be the greatest fraud in newspaper history. We brought him here to show what an absurdity he is..."

"At some point, Mr. Brown must be controlled," objects Farber's lawyer, Floyd Abrams. "These are defamatory statements about my client."

Abrams, a paladin of the First Amendment, is no match for Brown's courtroom jousting. The defense attorney's point has already scored with the jury; the judge seems amused and asks Abrams, not Brown, to dismount. As a parting shot, Brown retorts, "Under your First Amendment, Mr. Abrams, I can say what I want in this courtroom."

Nixon's Revenge

On June 29, 1972, 12 days after the Watergate break-in, the Supreme Court handed down a landmark decision from which most of the current controversy surrounding the Farber case stems. As Watergate marked a low point for American politics, so the Court's 5-4 ruling in *Branzburg* v. *Hayes* marked what was, until then, a low point for the American press.

Three cases were before the Court at the same time, all involving the question of whether a reporter could be compelled to appear and testify before a grand jury. Paul Branzburg, a reporter for the *Louisville Courier-Journal*, had written several articles about the use of hashish and other drugs based on interviews with drug dealers in Kentucky; Paul Pappas, a reporter for WTEV-TV in New Bedford, Massachusetts, had been inside the local Black Panther Party headquarters during a night of rioting in that city; and Earl Caldwell, a *New York Times* reporter, had interviewed a Black Panther leader in Oakland who had allegedly threatened to kill Richard Nixon. All three reporters were subpoenaed to appear before grand juries investigating possible crimes. All three refused.

The Supreme Court's majority opinion, written by Byron White, began with these strong words: "The issue in these cases is whether requiring newsmen to appear and testify before state or federal grand juries abridges the freedom of speech and press guaranteed by the First Amendment. We hold that it does not."

White discounted the reporters' contention that forcing them to testify would dry up their confidential sources, and he rejected the notion of a "qualified privilege" put forward by *The New York Times* and others that would require testimony only when it could be established that the information the reporter possessed was relevant to a specific violation of law, not available elsewhere and of sufficiently compelling interest to override First Amendment protections. In other words, White said, when it comes to balancing law enforcement needs against the First Amendment, the latter should always give way.

Fortunately for the press, only three other justices—Nixon appointees Burger, Blackmun and Rehnquist—shared this harsh view. The fifth member of the majority, Lewis Powell, in a three-paragraph concurring opinion, held that the validity of newsman subpoenas should be decided on a case-by-case basis,

"The *Branzburg* decision was a bad omen. We could see that the Court was writing the Nixon philosophy into the Constitution"

"striking...a proper balance between freedom of the press and the obligation of all citizens to give relevant testimony with respect to criminal conduct." By voting with the majority, Powell was agreeing that Branzburg, Pappas and Caldwell should be required to testify; but, in proposing a balancing test, or a qualified privilege, he seemed to be siding with three of the four dissenters. Thus, like other benchmarks of the Burger Court that are soft at the core—rulings on obscenity and reverse discrimination, for example—the *Branzburg* decision invited further litigation and confusion. (It also invited state legislatures "to fashion their own standards," resulting in the passage of some 26 so-called shield laws whose constitutionality has never been tested.)

The confusion was quickly apparent: In two subsequent Watergate cases in which reporters were subpoenaed to turn over materials, two judges came to two different conclusions, both basing their opinions on *Branzburg*. A few months after the Supreme Court decision, Judge John Sirica ordered a *Los Angeles Times* reporter to turn over a tape of an interview with a prosecution witness that Gordon Liddy said he needed to conduct his defense. "If the 'striking of a proper balance' is required," Sirica wrote, "this court will always strike the balance in favor of due process."

But in March 1973, another district court judge in Washington, D.C., Charles Richey, quashed ten subpoenas of reporters issued on behalf of the Committee for the Reelection of the President and other defendants in a civil damage suit. Richey explained that, following Powell's approach, he had balanced competing interests and decided in favor of the First Amendment. If Richey had followed White's and Sirica's approach instead, it is conceivable that Bob Woodward and Carl Bernstein, two of the reporters subpoenaed, might have been ordered to reveal the identity of Deep Throat.

"The *Branzburg* decision was a bad omen," says Fred Graham, who covered the Supreme Court for *The New York Times* in the late 1960s and who is now CBS News' legal correspondent. "We could see that the Court was writing the Nixon philosophy into the Constitution. The authoritarianism, secrecy, and governmental elitism that Nixon represented was the product of a disturbing time. And Nixon packed the Court to square with what he saw as his mandate growing out of an ugly mood in this country."

That "ugly mood" was manifest in a broad attack on the press during the Nixon years. The President made an unprecedented attempt to restrain the press from publishing government documents on national security grounds; Spiro Agnew hurled his invectives at television newsmen; Henry Kissinger arranged for wiretaps to be placed on reporters' phones; Charles Colson kept an enemies list that included more than 50 media personalities; White House Office of Telecommunications Director Clay Whitehead threatened increased government regulation of the networks if they didn't curb their "ideological plugola"; and John Mitchell authorized the subpoenaing of reporters from many major newspapers.

Hostility toward the press was nothing new for Washington, but by 1972 the Nixon administration had worked itself into a frenzy of paranoia. In other times, this fever might have been cooled by the Supreme Court. Instead, on June 29, 1972, the Court Nixon picked with one hand placed its imprimatur on the subpoenas he was serving with the other.

Of the nine justices on the Court at the time, only one, William Douglas, clearly saw the dangers inherent in the *Branzburg* decision. He took an absolute position that reporters should never be compelled to testify before grand juries (except in cases where newsmen are directly involved in crimes). "My belief," he wrote, " is that all of the 'balancing' was done by those who wrote the Bill of Rights. By casting the First Amendment in absolute terms, they repudiated the timid, watered-down, emasculated versions of the First Amendment which both the government and *The New York Times* advance in this case."

Douglas, as he so often was in his dissents, was both eloquent and prophetic. "Sooner or later," he warned, "any test which provides less than blanket protection... will be twisted and relaxed so as to provide virtually no protection at all.... The intrusion of government into this domain is symptomatic of the disease of this society. As the years pass the power of government becomes more and more pervasive.... Now that the fences of the law and the tradition that has protected the press are broken down, the people are the victims. The First Amendment, as I read it, was designed precisely to prevent that tragedy."

The Knock at the Door

Even before Douglas wrote his dissent, another fence was beginning to fall. In the late afternoon of April 12, 1971, four Palo Alto police officers showed up at the offices of the Stanford University student newspaper. They had with them a warrant authorizing them to search the premises for photographs, film and negatives of a campus demonstration in which nine police officers were injured. The previous day the *Stanford Daily* had published several pictures of the protest, and the district attorney believed that additional photographic evidence, which might be used to identify those involved in the melee, could be found in the newspaper office.

For 15 minutes, the four police officers rummaged through the paper's darkroom, file cabinets, desks and wastepaper baskets. They did not find what they were looking for. Nor did they have any idea that their futile search—the first such court-sanctioned foray against the media in recent times—would involve them in a seven-year legal battle.

Claiming that its constitutional rights under the First and Fourth Amendments had been violated, the *Stanford Daily* filed suit against the four police officers, the chief of police, the district attorney and the judge who had issued the warrant. A federal district court, and later the U.S. Court of Appeals, ruled in the paper's favor. They held that a warrant to search the premises of a party not suspected of a crime should be issued only if it could be shown that a subpoena would be ineffective, and, in the case of a newspaper, that the evidence would otherwise be destroyed. No such finding had been made.

ABC's Howard K. Smith called the *Stanford Daily* decision "Nazi-like ... the worst ruling the Court has made in memory"

By the time the case, *Zurcher* v. *Stanford Daily*, came before the Supreme Court earlier this year, the Carter administration had entered the fray—on the side of the police. In an *amicus curiae* brief, the Solicitor General argued that the lower court opinion, if upheld, would place an undue burden on law enforcement officials. The Supreme Court, having already balanced these same concerns in another context in *Branzburg*, took the next logical step. In a 5-3 decision handed down May 31, it ruled that so-called third-party searches, whether or not they involved news organizations, were permissible under the Fourth Amendment.

As in the *Branzburg* decision, the majority included the four Nixon appointees—Burger, Rehnquist, Blackmun and Powell—and Byron White (referred to by one critic as "Kennedy's biggest mistake next to the Bay of Pigs"). White once again was the bearer of bad news. "We decline to reinterpret the [Fourth] Amendment," he wrote, "to impose a general constitutional barrier against warrants to search newspaper premises, to require resort to subpoenas as a general rule, or to demand prior notice and hearing in connection with the issuance of search warrants."

While White was careful to point out that the Fourth Amendment offers protection to all citizens against "unreasonable" searches, and that only a few warrants to search newsrooms had been issued since the Palo Alto raid, he neglected to mention that local magistrates who issue such warrants are often little more than rubber stamps. As First Amendment lawyer Floyd Abrams puts it, "If all that stands between the government and a reporter's confidential sources is a magistrate issuing a search warrant, I don't consider that much protection."

In effect, the Supreme Court seemed to be signaling law enforcement officials around the country that they now have another weapon against the press at their disposal. Instead of having to subpoena a reporter to disclose his sources or his notes—a process likely to entail lengthy and possibly unsuccessful court proceedings—police can now go directly to a newspaper office with a warrant in hand and seize the materials they seek. Had the *Stanford Daily* ruling been in effect seven years ago, the government could have obtained a warrant to search the *New York Times* offices for a set of stolen documents called the Pentagon Papers.

Newspaper editors and columnists around the country took their "chilling effect" metaphors out of mothballs and likened the *Stanford Daily* decision to the onset of the Ice Age. Few, however, noticed the temperature dropping until it was too late. "We just assumed the press would win that case," says *New York Times* Executive Vice President James Goodale, who is now preparing guidelines for how his paper will respond to what he considers the "inevitable" knock at the door. ABC's Howard K. Smith called the decision "Nazi-like . . . the worst, most dangerous ruling the Court has made in memory." The *Boston Globe* said it was "a first step toward a police state." Second step would have been more accurate. Just as Douglas had predicted in *Branzburg*, another fence protecting the press was broken down.

Like a number of other recent Supreme Court decisions concerning the media, the majority opinion in *Stanford Daily* is based on the theory that the press has no greater First Amendment rights than ordinary individuals. If ordinary people can be denied access to prisons and other government facilities, as the Court ruled last term, then reporters have no special privilege to enter; if ordinary people can have their homes searched even though they are not suspects in a crime, as the Court ruled in *Stanford Daily*, then newspapers have no special right to keep the police out. As long as the constitutional rights shared by all are secure, the argument seems sensible. But the Burger Court has used this theory to disguise a deep-seated hostility toward the press and to provide a rationale for the denial of rights to all.

The implications of the *Stanford Daily* decision are indeed frightening. "On the pretext of looking for a piece of information," says Jack Landau, director of the Washington-based Reporters Committee for Freedom of the Press,

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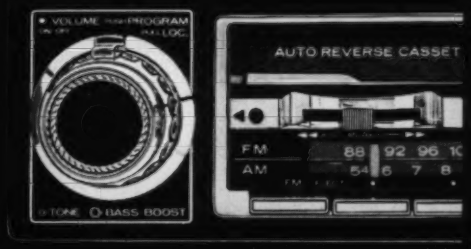

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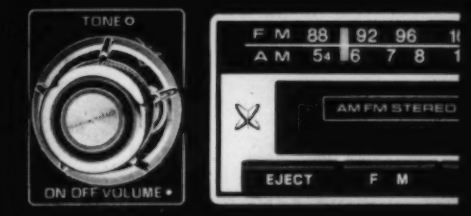

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"the police, without any warning whatsoever, can just walk into the newsroom and rummage through the whole place. If you're concerned about the destruction of editorial privacy, the scope of that type of intrusion, compared with a subpoena to disclose a single confidential source, is enormous."

Landau has been monitoring judicial hostility toward the press since 1970. That year, in response to the subpoenaing of Earl Caldwell, he, Fred Graham and a number of other reporters formed a committee to keep an eye on the First Amendment and to provide legal assistance to newsmen caught in the vise of the Burger Court. At first they concerned themselves only with subpoenas, but Landau lost count when the number rose into the hundreds. Then it was gag orders, closure of pretrial hearings, privacy laws—and now newsroom searches. The committee's quarterly magazine, *The News Media and The Law*, features such sensational items as "Police Raid Montana AP Offices for Tape," "Newsmen Arrested or Beaten in Raleigh, N.C., Houston and Newark " and "Press Arson in Oakland." It's enough to make even the most hard-nosed reporter look over his shoulder.

"The First Amendment is under siege," Landau says, his paranoid style and his rumpled suit giving the impression that he has just returned from the battlefield. His office, where five volunteers sift through stacks of legal papers and answer phone calls from reporters in distress, also has a besieged look. "The government is expanding its ability to invade," he says. "Just within the last few months we've had the *Stanford Daily* ruling, the Farber case—which is really the subpoena version of *Stanford Daily*—and now a decision that says the government can secretly seize the telephone records of reporters."

In December 1974, the Reporters Committee, acting on behalf of 12 journalists and two newspaper companies, filed suit in federal court against the American Telephone & Telegraph Company. The reporters—including Jack Anderson, Richard Dudman of the *St. Louis Post Dispatch* and David Rosenbaum of *The New York Times*—had learned that the phone company had turned over records of their long-distance calls to government investigators. During pretrial discovery, AT&T revealed that it had responded to nearly 100,000 toll-record subpoenas between January 1971 and March 1974, at least five of them involving reporters.

In 1971, for example, after portions of the Pentagon Papers appeared in the *St. Louis Post Dispatch*, FBI agents obtained the long-distance records for the newspaper's phones and for the home phone of its reporter, Richard Dudman. That same summer, FBI agents, acting on a White House request to discover

Absolutist: First Amendment guru Emerson eschews "balancing."

the sources of a Jack Anderson column (which had quoted a classified State Department cable about an AID official who had crashed a party for Vice President Agnew and gotten "sloshed"), subpoenaed the toll-call records of Anderson and three of his employees. In a third case, in 1974, the Internal Revenue Service obtained the records for all the phones of the entire staff of the Washington bureau of *The New York Times* to learn the identity of the source of a David Rosenbaum story about a federal tax-fraud investigation.

After losing in district court, the reporters took their case to the U.S. Court of Appeals for the District of Columbia. This August 11, the appeals court ruled 2-1 that, where "good faith" criminal investigations are involved, the government could subpoena phone records without notifying reporters in advance or giving them an opportunity to challenge the subpoena in court. In a 79-page opinion that relied heavily on the *Branzburg* and *Stanford Daily* decisions, Judge Malcolm Wilkey held that by exposing telephone contacts with confidential sources to third parties—i.e., the phone company—reporters surrendered any First or Fourth Amendment protection against subpoenas of those third parties.

The message of *Reporters Committee* v. *AT&T* is as clear as the ring of a telephone: If journalists want to keep their sources secret, they'll have to be more careful in the future. "All citizens when they choose to act surreptitiously are put to some inconvenience," Wilkey wrote. "They must lower their voices, put little or nothing in writing, speak and meet outside the presence of third parties; these simple precautions are commonly used, whether the ends be lofty or evil. Plaintiffs are no exception simply because they are 'journalists.' "

Malice in Wonderland

Are things as bad as they seem?

I anticipated the answer to my question as soon as I entered the looking-glass world of the Justice Department. Within these walls, the concerns of the press shrink and those of law enforcement assume gigantic proportions. My source—a high-ranking attorney in the Solicitor General's office—has agreed to see me only on the condition that our talk be on a not-for-attribution basis. When we meet, I warn him that his name is already written in my notebook, that I have called him from my home phone, that several people saw me enter his office and that I am not sure I'd be willing to go to jail to protect his confidentiality. He is not amused, but agrees to talk at his own risk.

"The press has overreacted to the *Stanford Daily* case," he says. "It's a self-fulfilling prophecy. By telling everyone that it's no longer safe to talk to reporters, the press is having a more chilling effect than anything that's likely to be done by law enforcement officials."

I ask him to explain his logic. "Look," he says, "there have been only 12 newsroom searches since 1971. None of them were carried out by federal officials. We're simply not going to do this, except in the most exigent circumstances. We have a Justice Department regulation, for example, that prohibits federal officials from subpoenaing newsmen without the approval of the Attorney General."

But that's just the problem, I tell him. Every policy has its own built-in exceptions: only in the most exigent circumstances; only with the approval of the Attorney General. Why should freedom of the press rest in Griffin Bell's hands? Or in the hands of state and local officials who are not bound by Justice Department regulations?

"The press is a powerful institution," my source says. "Public officials have natural instincts for self-preservation." Perhaps. But what about a Richard Nixon, who believes that his self-preservation depends on annihilating the press?

My source has no comment. I ask him how he responded to press criticism of the Solicitor General's brief in the *Stanford Daily* case. "We were seriously misquoted by people who never even read it," he says, his own self-preservation instincts flashing. "They made it look as if only Joseph Goebbels could have written that brief."

And the true story? He goes over to a file cabinet and pulls out a folder full of news clips, then locates a copy of the brief. "We tried to make it clear to the Court," he says, turning to a paragraph in the brief, "that there wasn't a serious federal law-enforcement

Photograph courtesy of Yale University

"Great Cases Make Bad Law": First Amendment crusader Floyd Abrams (left) and defense attorney Raymond Brown (right) vied over Myron Farber's notes in the courtroom of Judge William Arnold (center).

need to conduct newsroom searches."

So why then did the Justice Department take the position that the lower court's ruling in favor of the *Stanford Daily* should be overturned? "Because we concluded that the Fourth Amendment does not contain the restrictions on third-party searches that the press was claiming."

Curiouser and curiouser, I thought. And where does that leave us? "Why don't you just hide your notes?" my source laughs. "That would make everything much easier."

A Pig in the Parlor

"A system of free expression can be successful only when it rests upon the strongest possible commitment to the positive right and the narrowest possible basis for exceptions. And any such exceptions must be clear-cut, precise, and readily controlled. Otherwise the forces that press toward restriction will break through the openings, and freedom of expression will become the exception and suppression the rule."

—Thomas I. Emerson
The System of Freedom of Expression

At 71, Thomas I. Emerson is something of a First Amendment guru. It's not in the *Guinness Book of World Records*, but he has probably been cited in more footnotes to Supreme Court decisions in this area than any other scholar. Many of the nation's top lawyers learned their First Amendment catechism in his classes at Yale Law School. And some would say he wrote the book on the subject when he published *The System of Freedom of Expression* in 1970.

Though Emerson is now retired from teaching, he still keeps an office at Yale, writes law review articles and worries about the First Amendment. He is particularly disturbed by two recent developments. One is the Burger Court's increasing reliance on "balancing"—weighing First Amendment rights against competing concerns, as in the *Branzburg* and *Stanford Daily* decisions. The other is the Court's tendency to give less protection to some kinds of speech than to others.

"One of the major arguments about the First Amendment," he says, running his fingers through his thin, white hair, "is whether or not you can devise legal doctrine that doesn't have the disadvantages of balancing. Because balancing leaves everything completely open. Without flat rules, without real units to balance on each side, the courts can do anything they want. As can the police, the prosecutors or any government official. And, of course, the reporter doesn't know in advance anymore where he stands. He can't possibly pledge confidentiality, because it may turn out later that the balance will tilt against him."

As a First Amendment absolutist, Emerson believes that reporters should have an impenetrable shield protecting the confidentiality of their sources. The only alternative is interference by the government in the affairs of the press. "If you have a partial shield, then the courts have to decide every case," and that, he says, is a burden on the First Amendment far heavier than the one an absolute shield would place on the administration of justice.

The same intolerance for government meddling lies behind Emerson's concern about regulation of the content of speech. The Burger Court's rulings on obscenity, which rely on community standards to judge whether books and movies are entitled to First Amendment protection, are one example of this trend. But a Supreme Court decision handed down just before the end of the session in July was especially alarming—"possibly the worst decision of the term," he says.

By a 5-4 vote, the court ruled in *FCC v. Pacifica* (also known as "the seven dirty words case") that the Federal Communications Commission could impose sanctions on broadcasters who transmit "indecent" language over the airwaves. The case involved New York City radio station WBAI, which, in October 1973, broadcast a monologue by George Carlin entitled "Filthy Words." The 12-minute routine, in which Carlin managed to say the word "shit" more than 60 times, prompted a man who was lis-

"All citizens when they choose to act surreptitiously are put to some inconvenience. Plaintiffs are no exception simply because they are 'journalists'"

tening on his car radio with his young son to complain to the FCC. The regulatory commission censured WBAI in 1975, but was overruled by the U.S. Court of Appeals for the District of Columbia, which said the FCC had overstepped its authority. The commission appealed to the Supreme Court.

John Paul Stevens, who wrote the majority opinion, held that, although the monologue was not obscene, it was indecent—"nonconformance with accepted

Photographs L. to R.: Liaison, UPI, Paul Kern/Liaison

standards of morality" was the way he put it. And he concluded that the broadcast's social value was so slight that it fell outside the ambit of the First Amendment. (He must not have listened carefully to Carlin, who, more than just reciting dirty words, was explicitly twitting people like Justice Stevens and their accepted standards of morality: "The big one, the word fuck, that's the one that hangs them up the most. 'Cause in a lot of cases that's the very act that hangs them up the most.") "When the [Federal Communications] Commission finds that a pig has entered the parlor," Stevens wrote, "the exercise of its regulatory power does not depend on proof that the pig is obscene."

Although the FCC has been guarding the parlor since 1934, and although the courts have always held that the scarcity inherent in the medium entitles broadcasters to less First Amendment protection than newspaper publishers, this was the first time the Supreme Court had ever advocated censorship on the grounds of nonconformity. "Just about the worst thing that can happen to the First Amendment," Emerson says, "is for the government to decide whether speech has social value. The whole basis of First Amendment theory is that that's none of the government's business."

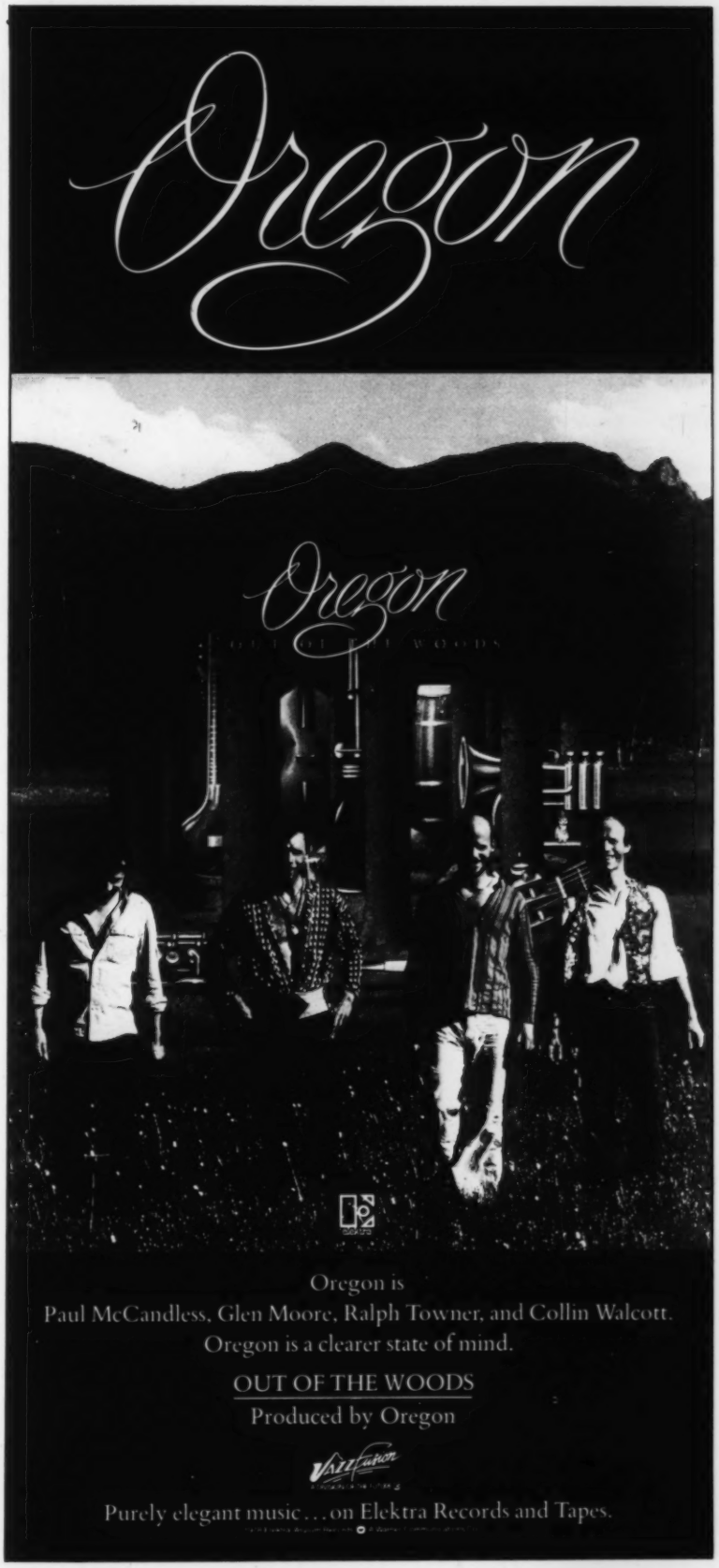
In a dissent that rivaled those of William Douglas for its passion, William Brennan called the Court's decision an "attempt to unstitch the warp and woof of First Amendment law." The majority opinion, he wrote, reflects "a depressing inability to appreciate that in our land of cultural pluralism, there are many who think, act, and talk differently from the Members of the Court, and who do not share their fragile sensibilities. It is only an acute ethnocentric myopia that enables the Court to approve the censorship of communications solely because of the words they contain."

To Thomas Emerson, who has spent much of his life teaching the values of the First Amendment, the *Pacifica* decision must have seemed, as its author would say, like a pig in the parlor. "The Burger Court has consistently whittled away, watered down, and misapplied the First Amendment," Emerson says, "but this case goes far beyond anything they've done before."

As Justice Brennan put it in his *Pacifica* dissent, the Court "burn[ed] the house to roast the pig." It was an appropriate climax to what may well be remembered as the year the Supreme Court barbecued the First Amendment.

Rights on the Ropes

Floyd Abrams has Band-Aids on the tips of his forefingers the afternoon I visit him at his office near Wall Street—to keep him from biting his nails, he tells me later. He has just returned from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what he calls his "weekly thrashing" in Hackensack, where a judge accused *The New York Times* of "sanitizing" its files on the Mario Jascalevich case. As a high-priced lawyer whose clients include the *Times*, NBC and CBS, Abrams is not accustomed to such abuse. And, as the country's premier First Amendment troubleshooter, he does not like losing.

Abrams argued the only case in which the Supreme Court came down on the side of the press this year—a unanimous decision that a Virginia newspaper could not be punished for publishing information it had obtained about a secret inquiry into judicial misconduct. He persuaded a federal district court judge in San Francisco to dismiss an $11-million damage suit against NBC brought by a woman who claimed her daughter had been raped as a result of a movie the network had aired. (See *New Times*, September 4, 1978. The case, *Niemi* v. *NBC*, is now on appeal.) And Abrams won a significant U.S. Court of Appeals ruling on behalf of CBS that said a reporter did not have to answer so-called "state-of-mind" questions in a libel case. (An appeal in that case, *Herbert* v. *Lando*, is being considered by the Supreme Court this term.) Not a bad record at a time when the prevailing judicial winds are blowing against the press.

Then there is the matter of Myron Farber. Try as he might, Abrams has not been able to convince a single court in New Jersey of the merits of his position. He has been accused of "effrontery" by one judge, and has had his client attacked for "standing on an altar of greed" by another.

Abrams does not seem the type to provoke such judicial wrath. His courtroom style is professorial, even timid at times; his manner is hardly that of the typical corporate lawyer (his office at Cahill Gordon & Reindel looks as if he refuses to let the interior decorators and janitors disturb the overstuffed briefcases and piles of papers that clutter the floors and tables); and his position is that of a First Amendment moderate, not an absolutist.

"All we have asked from the beginning," Abrams says, "is that we be given a hearing to determine whether the subpoena is overbroad and whether Farber is entitled to some protection under the New Jersey Shield Law and the First Amendment. We have not taken the position that we wouldn't turn over any documents. But we believe that some materials—the names of confidential sources, confidential information, and a reporter's notes, because they lie at the very heart of the editorial process—are entitled to protection. This is what a hearing should decide, and this is what the courts have refused to give us."

Three weeks later, on September 21, the New Jersey Supreme Court ruled 5–2 to uphold the contempt citations against Farber and the *Times*. Adopting a strict interpretation of Byron White's *Branzburg* opinion, the court said that a hearing, like the one Abrams had proposed, was unnecessary in Farber's case: "We do no weighing or balancing of societal interests in reaching our determination that the First Amendment does not afford appellants the privilege they claim. The weighing and balancing has been done by a higher court." As for the New Jersey Shield Law, the court said it must bow to Mario Jascalevich's Sixth Amendment rights. Farber would have to return to the Hackensack jail until he changed his mind or the trial ended. He chose to go back to prison October 12, after the U.S. Supreme Court voted 7–1 to vacate a temporary stay. And he stayed there until October 24, when Mario Jascalevich was acquitted. In freeing Farber and suspending the criminal contempt charges that could have kept him in jail for another six months, Superior Court Judge Trautwein said, "Where compliance becomes meaningless, imprisonment becomes meaningless." The Supreme Court has still not decided whether to review the New Jersey Supreme Court's ruling now that the case is moot.

"Now that the fences of the law and the tradition that has protected the press are broken down, the people are the victims"

The issues raised by Raymond Brown—even if he was using them as a feint—are not easy to resolve. This was not an ordinary fight between law enforcement officials in dark trunks and the Bill of Rights in white, but a three-way contest with two men defending their constitutional rights against the government while battling each other at the same time. The Constitution was on the ropes.

Many free press fans have disregarded the Sixth Amendment as cavalierly as the New Jersey Supreme Court dismissed the First. The *Daily News*, normally an adversary of the *Times*, was quick to rush to Farber's side: "There may be overriding considerations in some cases, such as national security. But nothing approaching that exists in the Dr. X trial." Other papers took up the cheer; few seemed concerned about the plight of a man on trial for murder.

Whether or not Myron Farber was part of a conspiracy to frame Mario Jascalevich, it is conceivable that such a situation could arise in another case. Reporters are often fed information by prosecutors anxious to discredit individuals or to hype a weak case. Shouldn't a person indicted in the wake of such "investigative" reporting have an opportunity to defend himself by confronting his accusers and his accusers' sources?

But the consequences of forcing such disclosure are grave. Allowing what one New Jersey judge called a "tiny peek" at a reporter's notes might soon lead to a breach in the First Amendment wide enough for police and censors to march through. At the least, it would seriously undermine the rule of confidentiality on which newspapers rely for much of their investigative reporting. Sources who desire anonymity would be reluctant to come forward unless reporters promised to defy the law and go to jail if found in contempt; a prison term might become a regular tour of duty for journalists. Or, as Justice Douglas warned in his *Branzburg* dissent, "If what the Court sanctions today becomes settled law, then the reporter's main function in American society will be to pass on to the public the press releases which the various departments of government issue."

Is there a way out, a way to protect *both* the First and Sixth Amendments? One unorthodox solution—unorthodox because no one has suggested it—would be for a judge in a criminal trial to dismiss the case if a defense attorney can make a showing that a reporter's notes are essential to his case, and if the reporter refuses to turn them over. Strict standards would have to be applied so that lawyers could not simply claim that their clients had been framed by the press. If the standards could not be met, the reporter's notes would be ruled inadmissible, like testimony from a spouse or a priest. But if they could be met, the judge would be required to dismiss the indictment, as he must do when a defendant can establish that the only evidence against him was obtained from an illegal search. Either way, the reporter could not be held in contempt for refusing to turn over his notes. That a few guilty individuals might escape punishment seems a reasonable price to pay for the protection of two constitutional rights.

The Supreme Court, if it decides to consider the Farber case, is not likely to rule this way. Oliver Wendell Holmes once remarked that "great cases, like hard cases, make bad law." Given the current composition of the Court and the inexorable steps it has taken from *Branzburg* to *Stanford Daily*, it seems likely that this controversial and difficult case will provide yet another occasion for a calamitous decision.●

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Pelvic Therapy

For too many psychiatrists, the laying on of hands means exactly that

by Jonathan Black

The woman is 30 years old, attractive, a garden-variety neurotic. She trundles her anguish to a reputable psychiatrist who, after several months of treatment, one day hints that she slip off her clothes. Before you can say countertransference, he has stripped himself and hopped onto the couch beside her. Each therapy session soon becomes a sexual encounter. Eventually, however, the woman complains of having to pay for it. "I wouldn't feel *right* if you didn't pay," gently demurs the doctor, who presently invites the woman to a New Year's Eve party where, at the stroke of midnight, he announces his engagement to *another* patient. When patient Number One confides her hurt and outrage, he assures the distraught woman that his nuptial commitment to patient Number Two will in no way interfere with *their* sexual liaison. Now on the brink of a nervous breakdown, the woman finally seeks the aid of a second psychiatrist. "The experience to her was devastating," this second therapist confirms.

It was at a summer party in the Hamptons that three young women, strangers to one another, fell into that trusty conversational icebreaker: Talking About Your Therapist. Gasp followed gasp: Was it possible? Were all three under the tender loving care of the same roguish ex-Navy man? The soft-spoken guy from Arkansas who adored Ayn Rand? Emboldened by sisterhood, one of the women soon let slip that she had been, um, well, *sleeping* with her doctor. Two more gasps. So had they! Well, it wasn't long before Dr. Lonnie Leonard opened his mailbox in Lake Jem, Florida, where he had recently relocated, and found three certified letters slapping him with charges of professional neglect, sexual assault and battery—and demanding recompense to the tune of $9 million.

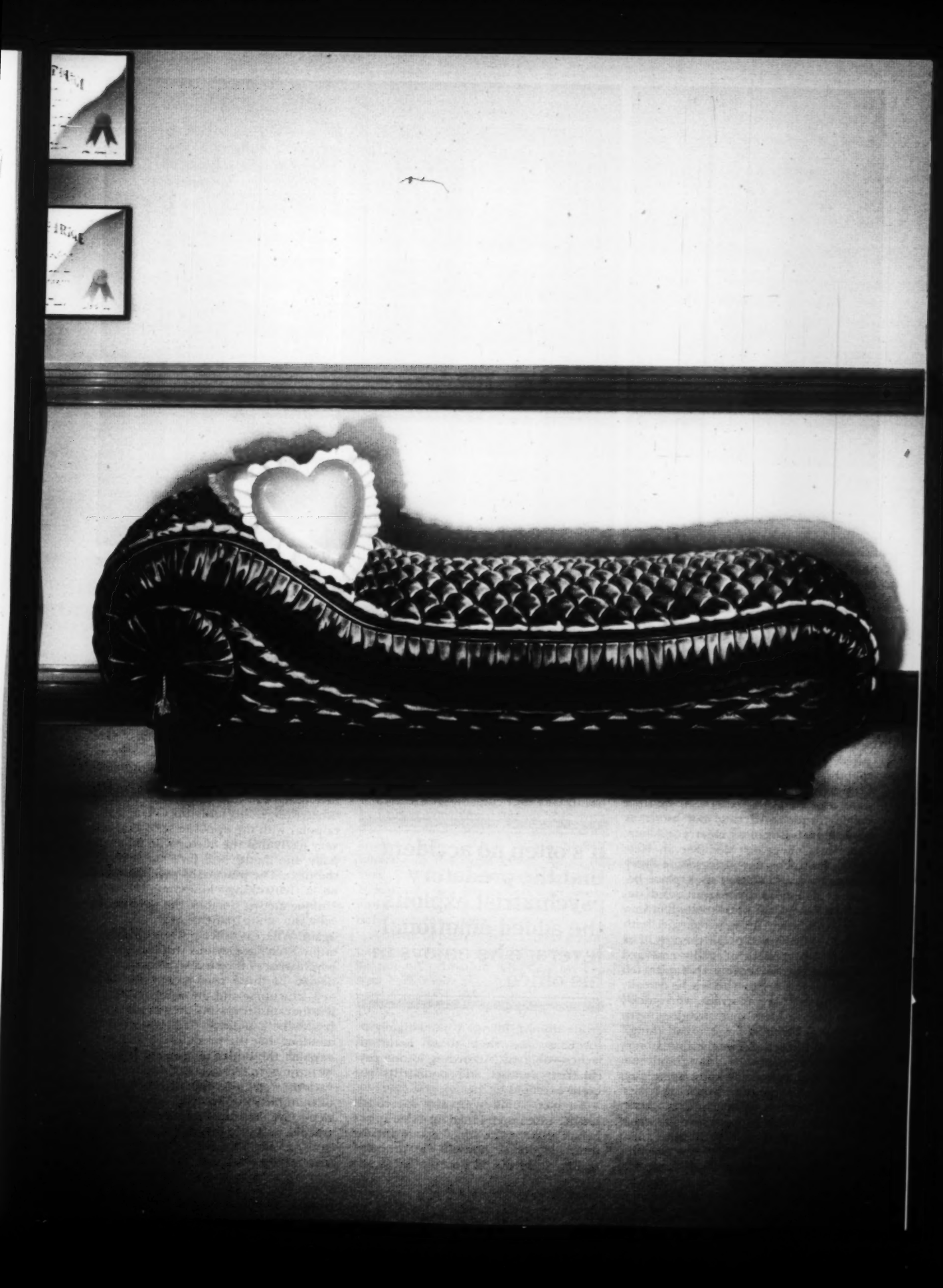
Such suits do not constitute very auspicious PR for a profession that prides itself on humanitarian action and impulse. Officially, the psychiatric profession takes an exceedingly dim and stern view *contra* sex with patients. "It's not only unethical, it's illegal," pronounces Virginia Sadock, speaking for the eminent American Psychiatric Association (APA). "It's a terrible abuse of trust. Exploitive. There's absolutely *no* therapeutic basis. To say there is is utter hogwash." Few psychiatrists *do* attempt to justify sex on the couch; most tend to echo the sentiment of *paterfamilias* Freud: If you start with a kiss you risk an ultimately "lively scene." Recently, both the APA and the American Psychoanalytic Association have specifically forbidden such lively scenes.

As far back as 400 B.C., the Hippocratic oath forced physicians to swear they would abstain "... from the seduction of females." Yet risk of professional censure apparently has done little to deter lecherous couchmanship. "There is definitely more patient-therapist sex than in the past," opines the chairman of a local APA ethics committee. How much is there? In a celebrated 1973 California study, 51 percent of the 85 male psychiatrists surveyed admitted to sexual intercourse with patients. One might have expected the inflammatory 1975 trial—in which Julie Roy, a 31-year-old *Esquire* secretary, successfully sued psychiatrist Renatus Hartogs for malpractice—to have had some inhibiting impact on Casanovas of the Couch. Apparently it didn't. Another survey, published a year ago, polled 1,000 Ph.D. psychologists (703 responded) and found that 5.5 percent of the males admitted to intercourse with patients, while 10.9 percent indulged in "erotic contact" (defined as "that which is primarily intended to arouse or satisfy sexual desire"). As expected, female Ph.D.s had a hands-off policy (.6 percent admitted to intercourse). Less expected was the rampant recidivism: 80 percent of all males admitting to intercourse did so with more than one patient.

"More staggering than anyone would realize" is how Robert S. Cohen, attorney for Julie Roy, assesses the incidence of patient-therapist sex. Indeed, since *Roy* v. *Hartogs*, Cohen has witnessed a virtual swarm of vengeful women knocking on the mahogany-paneled doors of Lans Feinberg & Cohen. Currently, Cohen is handling several malpractice suits and serving as consultant on a number of others. But the ones that come to public attention are the tip of the iceberg. Most suits never reach the courts; instead, they're resolved by settlement. And invariably, the doctor's terms of settlement require zipped-lip confidentiality by the suing patient. Thus, Cohen just finished negotiating a settlement that received little attention. A woman named Laura Reitman filed a million-dollar suit against Abraham Weinberg, a prominent New York psychiatrist. Reitman charged that Weinberg had "fondled, kissed, embraced, was masturbated by and engaged in fellatio with plaintiff" during every therapy session for two months. During pretrial testimony, Weinberg hotly denied the charges and explained that those entries in his office record marked "fellatio desensitization" were simply "part of [Reitman's] treatment." Just a few months ago, however, Weinberg chose to drop his defense and settled for a five-figure sum.

Not surprisingly, few psychiatrists will actually admit to sex during therapy. Though all psychiatrists I talked to swore up, down, right and left that they had never diddled a patient—and *would* never—almost all knew approximately three *other* therapists who had transgressed. Perhaps "transgressed" is the wrong word. Because while the APA officially decrees sex never, ever

Illustration by Dickran Palulian



Sharing The Couch: Julie Roy (right, with lawyer) said Dr. Renatur Hartogs (photo at left) engaged in sex with her during therapy. He denied it, but a jury believed Roy and she eventually won $50,000. The case inspired the TV movie *Betrayal*

justified, many APA members privately hesitate to condemn it in quite such final terms. Robert Gould, a practicing psychoanalyst and professor of psychiatry at New York Medical College, describes patient-therapist sex as extremely damaging, analagous to an adult's seducing a child. But Gould hesitates to categorically rule out a date in the future when sex with a patient *might* be "at least mitigated, perhaps minimally justified." A slightly more empathetic view of the groping doctor comes from Ed Hornick, a bit of a renegade, who sports a single turquoise earring and serves as clinical professor of psychiatry at Albert Einstein College of Medicine in New York. Hornick cites at least one "very meaningful affair" that took place between patient and therapist, and describes a therapist who "treated" a very shy, withdrawn 18-year-old girl with some old-fashioned pelvic therapy. The result? The patient allegedly emerged from her cocoon and the therapist "felt good, he felt *terrific*—he felt he'd really done his job," says Hornick, who quickly adds he considers such practice highly risky and, "by and large, a bad thing." Hornick himself draws the line at very chaste, infrequent "huddling and cuddling," but admits: "I know some guys who screw patients with as little hesitation as I take one on my lap."

Charged with flagrant sexual misconduct, the psychiatric profession often reverts to that reliable defense: pointing the finger at others. Frequently, internecine squabbling breaks out. I spoke with two psychiatrists who claimed that Ph.D. psychologists—due to their less rigorous training and "looser standards"—were much more apt to grope than fully analyzed M.D. psychiatrists. Attacked *en masse*, the profession hastens to remind the accuser that, when it comes to sexual exploitation of the innocent, desperate and gullible, lawyers—and even *ministers*—are not beyond reproach. Therapists are also quick to point to the 1974 California study that found GPs *most* culpable in the area of erotic hijinks, followed immediately by surgeons and then those notorious leches—ob/gyns. According to one psychiatrist, dentists and podiatrists are both "excellent catches."

It's often no accident that the predatory psychiatrist exploits the added emotional leverage he enjoys in his office

To gain some sympathy for couch sex, it's often mentioned on a therapist's behalf that, at the time of said infraction, the doctor himself was probably feeling forlorn and bereft. One study found that 90 percent of all psychiatrists who had sex with patients complained of being "vulnerable, needy or lonely" when the relationship began. But pleading temporary domestic crisis or fleeting depression may not quite let Dr. Feelgood off the hook. In one of the most significant papers in the field, Charles Clay Dahlberg sketches a composite profile gleaned from nine cases: "He would be rather withdrawn and introspective, studious, passive, shy, intellectual, perhaps intellectually adventuresome but not physically. Among other things, this adds up to being unpopular with the opposite sex." Nor is it very likely that the doctor who fails sexually one month will fare much better the next. The practice of psychiatry can be a frustrating, lonesome business. Unique among doctors, the psychiatrist sees the same patient over and over again. Whereas other professionals may enjoy lively, gregarious workplaces, the psychiatrist's office is a solitary sanctum devoid of those twin targets for lechery—the nurse and the secretary. Thus, if a therapist traps any prey in his lair, it has to be a patient. And it's often no accident that the predatory psychiatrist exploits the added emotional leverage he enjoys in his office. Judging from various women's reports, the majority of therapists who have sex with their patients are less than conventionally attractive and are, invariably, subpar lovers. As one woman described almost a year of sex with her psychiatrist, who

Photographs: Wide World

currently teaches at a major university, "He claimed he was going to help me get over my Oedipal complex. I guess I thought it was rather challenging. I could brag to my friends, 'Hey, I made it with my shrink!'... We had to enact this playlet. He had to be a strange man. I'd approach him on the street and he'd pick me up. I never had the nerve to tell him it wasn't sexually satisfying."

Not all couchmanship, of course, fits this portrait of the inept, clandestine groper—a most unflattering profile that would no doubt be contested by Lonnie Leonard. Although Leonard has vehemently denied malpractice charges that he "neglected to use reasonable care," there is almost a twinge of pride in his pretrial statement. "I . . . likewise deny that I 'induced' anyone to engage in sexual activities with me," he said. "As mature adult women who sought me out to be their therapist knowing full well what my underlying philosophy was, and who continued in therapy with me over an extended period of time, they should be required to prove that I assaulted them in any manner." However, while this statement suggests that Leonard may be the first accused therapist actually to admit to erotic dalliance, he was beaten to the confessional by that notorious heretic and self-proclaimed Casanova: Martin Shepard.

For the better part of a decade, Shepard has been irking and needling the more convention-bound members of the psychiatric community. In 1971, he penned a book called *The Love Treatment*, consisting of taped interviews with ten patients who'd slept with their therapists. In his introduction, Shepard pontificated, "If such possibilities for intimacy exist and if they can at times be helpful, then convention be damned." Several of the women (plus one man and one couple) stated that they found the sex both gratifying and beneficial. He also wrote *Games Analysts Play*, an exposé on couchmanship.

Then came *The Do-It-Yourself Psychotherapy Book*, in which Shepard urged potential patients to give it a whirl at home first. But Shepard's most troublesome tome was a relatively inconspicuous little "autobiography" called *A Psychiatrist's Head*, a racy Decameron that catalogued the major sexual events of what Shepard fondly termed his "Tantric Summer." Here is where the trouble starts.

In addition to graphic, often rhapsodic descriptions of sex with his luscious Scandinavian wife, with friends and neighbors and with a chummy liberated couple, Shepard also detailed several sexy episodes between himself and participants at group encounter weekends (sponsored by the Esalen-inspired growth center called Anthos). *A Psychiatrist's Head* was published in 1971; a few years later, the book already out of print, a dog-eared copy came to the attention of the Division of Professional Conduct of the Board of Regents. If the book was true, charged the Regents, then Shepard was guilty of unethical sexual intercourse with patients; if the book was a work of fiction, then Shepard had sinned by holding psychiatry up to "disrepute and . . . ridicule." "Heads you win, tails I lose!" charged

Though all psychiatrists I talked to swore that they had never — and would never — have sex with a patient, almost all knew three *other* therapists who had

the outraged Shepard, who nevertheless admitted—to the shock and delight of Regents investigators—that the book was true. Every word of it. Had Shepard denied that sex took place, confided one investigator, the state's case would certainly have collapsed for want of evidence, because no patient-victim ever came forward to lodge a complaint. Indeed, Shepard defended his actions by charging that he had been accused of a victimless "crime." He further denied any guilt by explaining that the "patients" he had had sex with were not his patients; they were attendants at group encounters. Shepard said that he *never* had sex with a patient in ongoing therapy. During the Regents hearings he attempted to strengthen this point. He produced one woman identified (and seduced) in the book, who testified she had never considered herself Shepard's patient. He produced a letter from another woman—now a psychiatrist herself—to the same effect. All to no avail. Ruled the Regents hearing panel: If you went to a group encounter weekend run by a doctor, then you were, by definition, his patient.

A series of bizarre events followed the panel's recommendation that Shepard be put on probation. Queried by *The New York Times* as to his reaction, Shepard fumed, "If they really believed me guilty, they should have *revoked* my license." Alerted to this charge, the Board of Regents promptly complied and *did* revoke Shepard's license. Shepard then labored unsuccessfully to convince civil liberties organizations to handle his case. Failing, he hired a private attorney, who is filing an appeal supported by a blue-chip *amicus curiae* brief with 25 signatures. Shepard himself hasn't officially practiced psychiatry in more than six years; he has been designing beach houses and recently started a small publishing house. To no one's surprise, the catalogue's first title is a reissue of the kiss-and-tell book that cost him his license, entitled *Memoirs of a Defrocked Psychoanalyst*.

Being defrocked, however, doesn't always mean being put out of business, as evidenced by the case of Renatus Hartogs. The historic trial of this prominent doctor and *Cosmopolitan* columnist received considerable publicity in 1975. To bolster Julie Roy's case, her lawyers led three other ex-Hartogs patients to the witness stand to testify that they, too, had been coaxed into carnal intimacy. In Hartogs' defense, his lawyer passed around 8x10 glossies of an immensely swollen benign tumor on the doctor's right testicle, which would have made sex painfully prohibitive (and which Roy had failed to notice). The jury believed Roy, however, and awarded her $250,000 compensatory damages and assessed another $100,000 punitive damages. Rather than further embarrass the doctor, the Board of Regents allowed Hartogs quietly to "resign" his license on a minor drug-abuse charge. (Months after the final appeal, he claimed habituation to certain amphetamines.)

So where has Hartogs been? In prison? Slashing his naughty wrists? In South America? No, when this reporter visited him early this year (on a consultation, as a patient), the doctor was director of New York's Stress Coping Institute—essentially a one-man operation—and was carrying on a busy private practice in a modest, somewhat dingy office in Manhattan. His waiting room featured several threadbare couches and one of the most bizarre pictures ever to grace a therapist's outer sanctum. Six sinister baboons oversee a shark tank in which two ferocious hammerheads are busy dismembering a tiny screaming man. One of the man's legs, spouting blood, protrudes from the shark's jaw; a huge, bloody hole is visible in the man's chest, from whence his heart has been wrenched. There was nothing quite so forbidding in Hartogs' small, dimly lit office, and it was not hard to see how Julie Roy— or any woman—might have succumbed to the doctor's impressive European accent, cordial manner and *eminence grise*. When the case was mentioned, Hartogs quickly and firmly denied any sex with Roy. "I never did it. She had some very good lawyers and I had a bad one," he explained, and then volunteered that he indeed had employed the woman as typist and secretary—but only *after* the end of treatment. "And I have the checks to prove it," he again volunteered. Queried about his style of therapy, Hartogs waved at a wall of diplomas and certificates, ticked off various credentials, in-

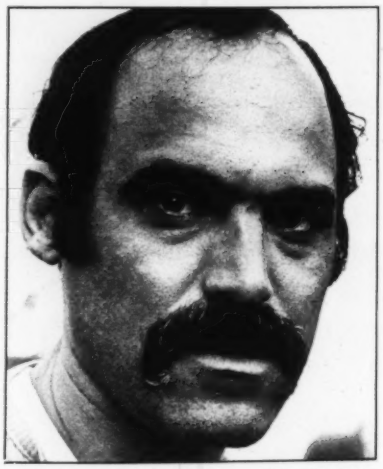
cluding an M.D., and ended by pointing to the bottommost framed certificate, from the American Institute for Psychotherapy and Psychoanalysis, where he was teaching weekly workshops. (He resigned from the board.

Robert Asher, who heads the Regents Division of Professional Conduct, has kept close tabs on Hartogs' continuing practice. A tip that Hartogs was still "performing medicine"— e.g., taking blood pressure, temperature—was confirmed by one of the division's undercover operatives. There followed prompt criminal action—practicing medicine without a license is a misdemeanor punishable by a year in jail—and Hartogs copped a guilty plea and promised to behave himself.

Much of Asher's initial info comes through public sources—newspaper clips, DA's reports, notice of impending suits or trials. Occasionally, as in Shepard's case, it's a complaint that sets off the investigation. Asher concedes no *patient* ever complained about Shepard, but emphasizes: "It doesn't matter *how* we get the complaint. We don't even *need* a formal complaint. In his [Shepard's] case, it was all in his book."

If Asher sounds a bit pleased to have nailed his man, it's understandable. Actually *proving* sex between doctor and patient can be a very frustrating business. Without corroboration—and behind the therapist's double soundproof doors corroboration is even more elusive than in cases of rape—the balance of credibility inevitably tips toward the professional treating a sick, desperate "patient" obviously prone to paranoid fantasy and wishful hallucination. Undercover work designed to lure the allegedly lecherous doctor into a documentable seduction is chancy, inefficient and costly. For instance, the case of William Abruzzi, the notorious "Rock Doc"—so called because he supplied first aid at Woodstock—just about broke Asher's heart. To substantiate charges of molesting patients, an undercover policewoman was dispatched to the doctor's Rockland County office, while another detective reportedly observed the ensuing sordid scene from a nearby tree. Alas, just when Abruzzi was about to lose his license, thanks to the gumshoe's potentially incriminating photos, an enterprising lawyer pointed out that the tree was rooted on Abruzzi's property; since the snooping detective was guilty of trespass, out went the evidence. And with it went the case. After a followup Regents investigation, Abruzzi's license was revoked.

A more successful undercover operation took place recently in Florida, where a young woman, Judy Rotenberry, visited the Pensacola Medical Center clinic for psychiatric help, was administered a "gaseous substance" and returned to consciousness just in time to



Self-Proclaimed Casanova: Dr. Martin Shepard wrote about his exploits

catch her doctor hastily zipping his pants. Her complaint to the local authorities was met with understandable skepticism. After all, William M.C. Wilhoit was not only a prominent psychiatrist but also former president of the Florida Mental Health Association. But Rotenberry was adamant; she might be sick, but she wasn't stupid. So during her next visit to Wilhoit her body was wired, and sheriff's deputies listening to the tape were astounded to hear Wilhoit parrying Rotenberry's accusations of rape with something like: "Come on, Judy—you're a big girl." If further corroboration were needed, three others charged Wilhoit with administering an incapacitating gas and raping them. "In my nightmares, I always see Dr. Wilhoit coming into the room," charged one woman. Another said, "Now I have a phobia of men who wear black-rimmed glasses."

While the evidence against Wilhoit seemed incontrovertible (he even admitted to the sex), he recently was acquitted. The reason? Though rendered blotto by CO_2, the women presumably were judged to have known what they were doing. Indeed, informed consent is often an excellent defense, especially—as in the Wilhoit case—when a second psychiatrist, who treated Rotenberry and another woman seduced by Wilhoit, pronounced both women "extremely ill people" who had Wilhoit "prominent in their fantasies."

This question of fantasy rape and seduction can present a thorny challenge to attorneys and investigators, because frequently patients *do* indulge in flights of fancy. Cohen, for one, has seen too many women eager to nail their therapist to the couch not to take a wary view of each new complainant. "It's too easy a charge to make," he explains. "I had one woman recently. There were certain doubts in my mind. I suggested she take a polygraph test. She declined, and that was the end of it." Asher, too, must distinguish the true victim from the woman motivated merely by vengeance, frustration or the lure of bucks and publicity. After considerable experience with trumped-up charges, he has worked up a profile of one type of false accuser. "She's single, divorced or widowed. Maybe 45 to 50 years old. Often she's going through menopause. Suddenly she develops a very lively imagination. One woman claimed her dentist molested her. She claimed he took the false teeth out of her mouth, then brushed the teeth with this tablet. The next day she felt this tremendous urge to have sexual intercourse. She claimed this dentist had slipped her an aphrodisiac. But then she tripped herself up. She made some other complaint about another dentist. Now she sends us one every week."

Distinguishing wishful from actual seduction is a tricky evidentiary problem compounded by the fact that libidinous vibes are often transmitted by the patient. Crudely, writes the eminent psychiatrist Fritz Redlich, there are two types of patients: the infantile, passive, dependent and often depressed patient ("The seduction of such a patient is indeed comparable to statutory rape"); and the aggressive patient who seduces the therapist. It is this latter female who practically shouts "Informed Consent!" and thereby tempts even the most ethical doctor into transgressing.

"There's no *way* to practice psychotherapy and not have female patients behave seductively," states psychoanalyst Gould. "It's extremely frequent, and inevitable." Presumably, therapists are schooled to recognize the suggestive flick of the tongue and lewdly exhibited thigh as a natural, auspicious phase of transference—that helpful phenomenon that aids a patient in acting out—it is hoped, dispelling—ancient, nagging trauma. The trouble starts when the doctor begins salivating in return, a reflex that goes by the technical name of *counter*transference. Should such a sticky situation come to pass, there is but one approved, appropriate action: "If drive regulation and control are not possible for the psychoanalyst under the impact of stimulation," reads the psychoanalyst's code of ethics, "he should transfer the patient to another analyst and seek treatment himself." But suppose it's something more than that cold, predictable analytic fallout? Suppose it's really *love*? Gould, after all, is presently married to one of *his* former patients (the writer Lois Gould). Elaine May married *her* analyst. And there is considerable historical precedent for eminent psychiatrists' finding romance in the treatment room. Reich's first wife was his patient, Bernfeld's last wife, Rado's third wife and one of Fenichel's wives. Should Cupid's arrows fly

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between couch and chair, it behooves the therapist to cease playing doctor immediately; then, and only then, explains Gould, is he free "to bed and wed her." This admonition is perhaps reflected in a 1977 survey, which reported that, while 5.5 percent of therapists transgressed *during* therapy, the incidence of intercourse shot to 8.1 percent within three months *after* therapy was terminated.

An interesting new wrinkle in this "When can I marry my patient?" dilemma turned up this summer. The trouble dates back to 1975, when the Savader marriage hit the rocks and both Penny and Louis sought joint counseling help from Nita E. Karp, a certified New York State psychologist. According to Penny, after five months of treatment, Karp urged Penny's husband to leave the "marital residence" and then, for a year and a half, discouraged any and all reconciliation. And while Karp continued to see Penny in her professional capacity, she began to see Louis in a very unprofessional capacity (charges Penny). This past summer, the Savader divorce final, Louis Savader and Karp were married; Penny filed a $306,500 malpractice suit (and Karp retaliated with a $1-million defamation-of-character counterclaim).

At least Karp went ahead and married Savader. How often, one wonders, does the lusty doctor terminate therapy in order to indulge in what will obviously prove to be just a brief fling? Judd Marmor, former president of the APA, asks, "How many others who did not reach this honorable end-point [marriage] have nevertheless rationalized their loss of self-control on the basis of 'falling in love'? I do not know." There is, however, general consensus that the seduced and abandoned patient is doubly damaged: bereft of both couch and bed. In *Betrayal*, the book about her experience, Julie Roy describes Hartogs' posttherapy rejection of her as particularly devastating—and the precipitant for her hospitalization. As another woman expresses her hurt and anger: "One night, after my session, he asked me if I wanted to go out and have a couple of drinks. After a few, he said he didn't want to see me in the framework of therapy. He wanted to 'socialize.' I thought, 'Oh, wow!' I thought it was pretty terrific. But, though I kept asking for another doctor, he refused to find me another therapist. And after four or five weeks he suddenly decided he didn't want, you know, *that* anymore. I was suddenly like a stranger. Someone he picked up in a bar.... He just *used* people.... He took money from me under false pretenses.... I can't describe what he did to me."

Increasingly, what seduced patients are doing to doctors is suing them. Wilhoit escaped the criminal charges of sexual misconduct, but several civil suits are pending. Often, when a suit is publicized, new plaintiffs come out of the woodwork (in fact, two more women have brought malpractice suits against Lonnie Leonard). Not all accusations, however, take the form of legal suits. The New York Department of Health's Board For Professional Medical Conduct, which took over M.D. investigations from Asher's office in 1975, reports that though charges of sexual misconduct are proportionally small, at present half a dozen New York psychiatrists are under investigation. Another forum for complaint is the APA. At a New York district branch, charges of improper conduct during a recent four-year period jumped by a factor of *four* over the previous four-year period. Of these complaints, charges of sexual misconduct ranked third out of seven. Nevertheless, the likelihood of the felonious Feelgood's getting into serious trouble for illicit sex remains very, very remote. Psychiatry is not yet very adept at policing its own ethical conduct.

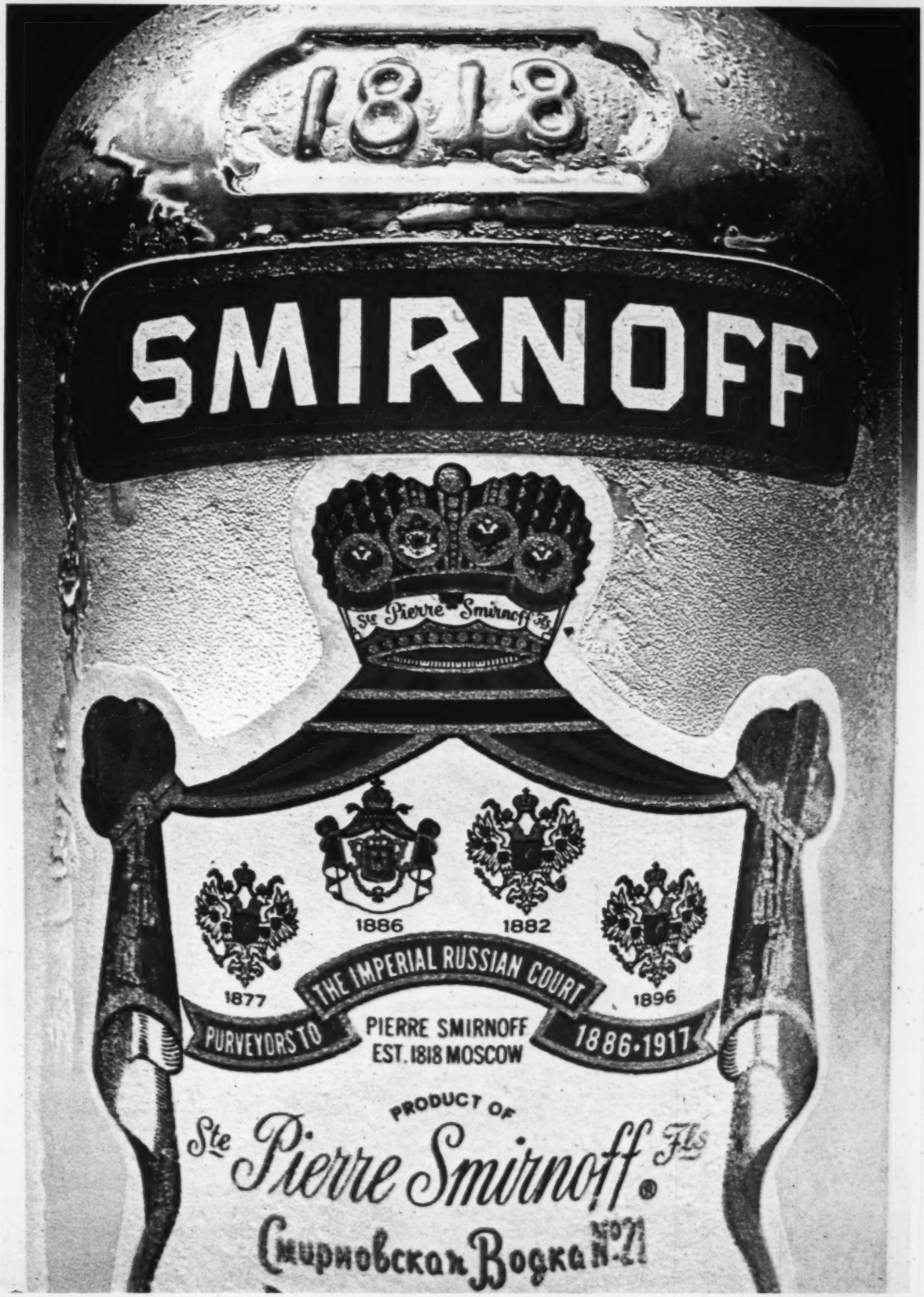
The balance of credibility inevitably tips toward the professional treating the sick, desperate "patient" obviously prone to paranoid fantasy and wishful hallucination

In a 1975 paper entitled "Can Psychiatry Police Itself Effectively?" Arthur Zitrin, chairman of the New York branch's ethics committee, freely admits to the problems arising when testimony conflicts. For instance, committee members, highly experienced psychiatrists and psychoanalysts, were divided as to where the truth lay. In this case a female patient accused her male physician of having had sexual relations with her over a long period of time. Lack of corroborating evidence precluded a definitive finding." Zitrin asks, a little exasperatedly, "What standard are we supposed to use? Reasonable doubt? Preponderance of the evidence? So far we just don't have any precise guidelines." And if patients' complaints present evidentiary problems, therapists informing on their colleagues raise even murkier dilemmas. Although there's a new statute on the books in New York requiring physicians to report unethical conduct of colleagues, it seems highly improbable that many will squeal. "The likelihood is that it [misconduct] would *not* be reported," admits Zitrin, citing the therapist's obligation of confidentiality toward his patient as the major mitigating factor. In his paper, Zitrin also stresses that "reporting by physicians of unethical conduct by colleagues is quite rare, and it will be difficult to provide incentives to alter this fact."

The incentives for litigious women may be even fewer: Sex on the couch is a shameful, embarrassing charge to make and is rarely reported. It often seems to implicate the victim. Should the suit reach trial, the accusatory patient can expect every sordid detail of her private life to receive full public disclosure. The reward for such torment? Some measure of vengeance, perhaps. But the promise of financial reparations is not always bright. Appellate courts struck down the jury's $350,000 award to Julie Roy; she ended up getting $50,000 from the insurance company.

It's conceivable that the courts might be willing to uphold higher jury awards if insurance companies—and not the doctor—paid. But generally, malpractice carriers have wriggled free of any obligation to bail out doctors found guilty of sexual shenanigans. Although the company's obligation to defend is greater than its obligation to pay, Hartogs' carrier did not defend the doctor in court, and refused to pay his trial's sizable court costs. (Hartogs sued his insurance company and lost.) Generally, malpractice insurance does not cover willful acts committed by a doctor having no relevance to treatment; and extracurricular sex—or any sex—is not considered within the purview of any anticipated psychotherapy.

So far. This situation just might change when and if the case against Lonnie Leonard reaches trial. Certainly Abraham Fuchsberg, attorney for the women suing Leonard, is counting on such a new interpretation. "I'm *guessing*," says Fuchsberg. "I think he may defend his conduct as some form of sex therapy." Perhaps sensing such an ominous state of affairs, Leonard's insurance carrier temporarily balked. First, company executives refused even to defend Leonard. Then they changed their minds but rejected the lawyer Leonard had selected—a somewhat controversial ex-radical—and picked a more conventional attorney with a prestigious Manhattan address. As for Fuchsberg, a prominent malpractice attorney, he emphasizes that it is not the money that impelled him to take the Leonard case. "My own motive is not the dollar sign," he said. "This is not Salem, and this is not a witch hunt. If somebody wants to put a sign over his door that reads 'Sex Therapy,' fine. But according to my clients, this guy was some kind of a sexual athlete who happened to become a psychiatrist." ●



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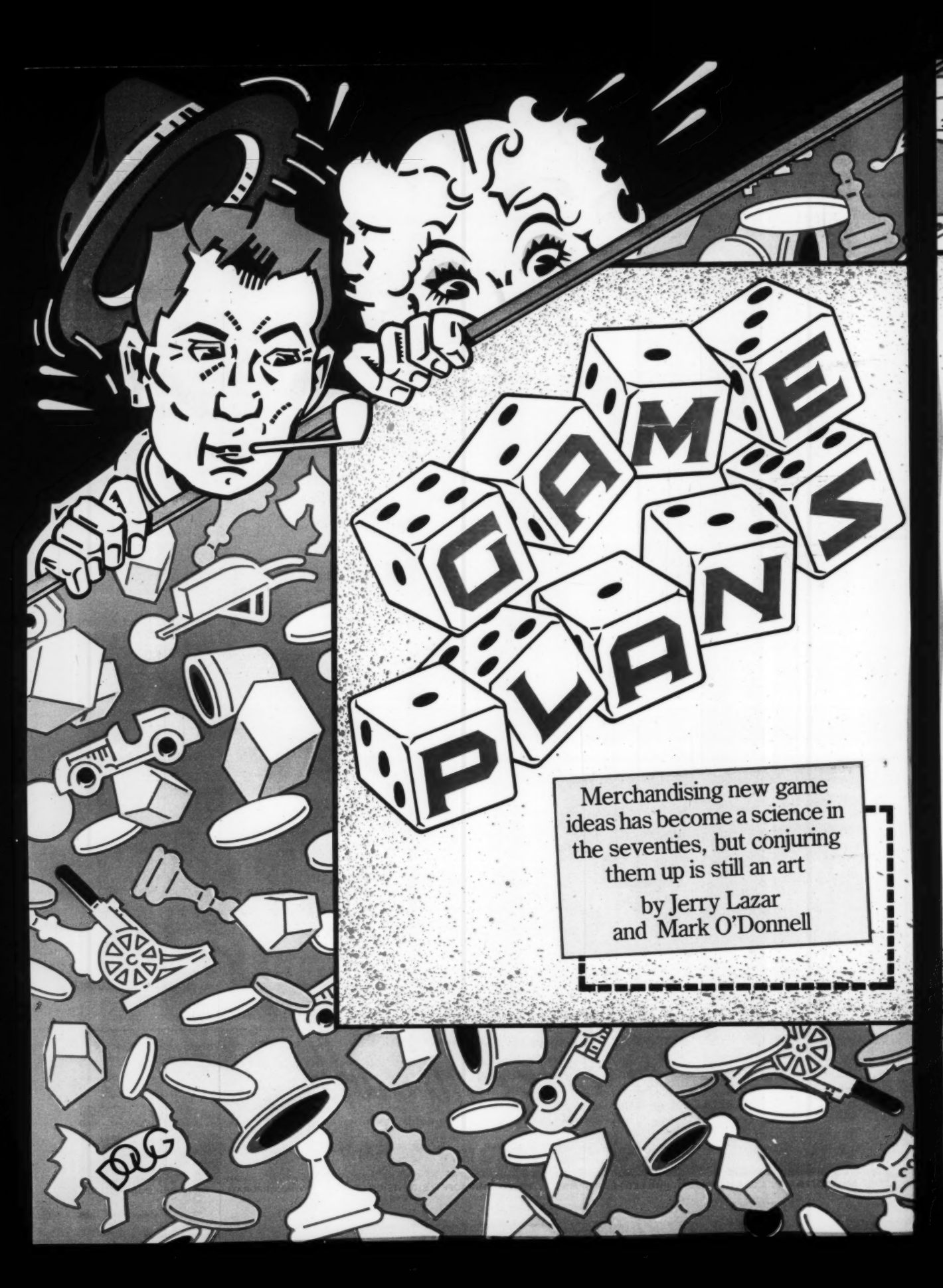

Merchandising new game ideas has become a science in the seventies, but conjuring them up is still an art

by Jerry Lazar
and Mark O'Donnell

Allan Turoff works alone in a basement workshop in midtown Manhattan. In the two dank, windowless rooms there are drafting tables, colorful boxes and shelves of Yuban jars filled with dice, chips, pawns, unmarked cubes and sand-filled marbles that are designed to roll no more than a few inches. It all has the atmosphere of a high school science fair.

Turoff is a professional inventor of toys and games. He hatches ideas, develops them in three dimensions and sends them around to manufacturers. Over the years, 18 of his creations have been accepted for marketing, each earning him just enough in royalties to warrant paying the rent and replacing old workbench tools. Then, last year, he struck pay dirt. One of his brainchildren—a deceptively simple word game called Boggle, which was originally picked up by Parker Brothers in 1972—had been reissued with an innovative, well-financed ad campaign. More than 2 million Americans now own Boggle sets, and the game has outsold Turoff's other 17 efforts combined. With an idea so remarkably primitive that a bright six-year-old could have suggested it, Turoff has achieved the success and recognition most game inventors only dream of. Even if the game stops selling tomorrow, it has already earned him enough in royalties to keep him in miniature precision lathes for the rest of his career.

Boggle was born in that Geppetto's workshop, where the inventor hangs his jacket and umbrella on the exposed plumbing. Amid the clutter is the original set—the only set fashioned by Turoff himself. Old-fashioned letters are attached to all 96 sides of 16 ivory cubes. A notepad, a sharp pencil and a green-tipped egg timer are thoughtfully included. He even built the box. It is purple; the lid is green with blue lettering, "Find-A-Word." To anyone who has seen the slick commercial package, this eight-year-old prototype looks as primordial as Alexander Graham Bell's first telephone box.

It is derived from Crypto, an as-yet-unmarketed word game Turoff invented and was trying to perfect. The idea was for one player to "encode" on a 4 × 4 grid a 16-letter sentence, which the other players would then "decipher." The game had its problems, not the least of which was concocting 16-letter sentences. Turoff fooled with the notion a bit, and then it dawned on him: No matter what the letters or letter arrangement, one was always distracted by three-, four-, often five-letter words formed by adjacent letters. Searching for them was a challenge, discovering them a triumph. Almost any random assortment of letters produced at least a dozen or so short words. Turoff knew enough about word games to realize that letter frequency was an important factor: In the English language, the letters used most often are E, T, A, O and N, while those used least are J, K, Q, X and Z. He affixed ten Es, eight As, on down to one each of Q, X and Z, to the sides of 16 cubes. The game now was for each player to roll the cubes, arrange them in the 4 × 4 plastic grid, and compete by finding and writing down the most words which no other player has

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In the grid above, for example, one can find POT, TOT, MAP, APE, STOP, SMUT, MUTT, PEST, PUTT, SPOT, STUMP, PELTS, MELTS, EMPTY, and on and on. Turoff called the game Find-A-Word, stenciled the name on the lid and shipped the model to Parker Brothers.

Ideas for new games, good or bad, can be groomed, rouged and ballyhooed. Parker Brothers and Milton Bradley, by far the two largest game makers, do almost exclusively that, depending for their inspiration on established inventors and independent design firms. Merchandising game ideas has become a science in the 1970s; conjuring them up is still an art. The staple cartoon notion of patent-office crackpots with bat-winged distilleries on their laps does not apply to the selection rites of the games industry. Parker, for instance, used to look at any free-lance ideas that floated in—until it was receiving 3,000 such hopefuls every year, nearly all of them unworkable or unsound, or unconscious imitations of existing games their makers had played in childhood. These pasteboard, hand-lettered duds were returned at great expense, an inconvenience complemented by frequent lawsuits when disgruntled rejectees felt Parker had stolen and disguised their creations. A few years ago, Parker—and its competitors—stopped examining unsolicited proposals and began writing letters of discouragement to all inquirers. Now the companies look at only 200 to 300 ideas per year, nearly all through professional inventors, games brokers or professional design firms.

Like Turoff, many game inventors are industrial designers, who might as easily tool the contours of a new sewing machine as devise a brainteaser. Sometimes old games are retreaded (Parker's hot but half-hearted Bionic Woman game is a cosmetically enhanced comeback of a fifties item called Star Reporter), or age-old pastimes are officialized for the first time (Milton Bradley recognized Hangman's potential by immortalizing it in plastic). Sometimes popular sports are fodder for game structures, although what's fun in one medium may be impossible to translate to a gameboard. Some sports games have survived the reduction, but the pleasure centers stimulated by athletics are undeniably different from the measured thrill of inching a plastic homunculus along a caterpillar track. "People who play tennis like to play tennis," argues Milton Bradley's sales vice president George Ditomassi.

Regardless, every game a company decides to adopt is inspected and crafted by its research and development department, the top-secret Pygmalion par-

lors that are off limits to the fifth-grade classes and Cub Scout dens that tour the company premises. Here one-way mirrors are used to watch human subjects play as-yet-unnamed board games. Test families are tapped like Nielsen Rating households. Color tests are administered to see if consumers feel happier with green or orange playing pieces, clear or bone-colored plastic dice. Naked game ideas are dressed in themes and settings. Gratuitous doohickeys and curlicues added here can determine a game's acceptance. Rules are written and rewritten, often by former textbook writers. Incomplete directions are no niggling matter: Monopoly's rules were revised seven times in its first year of release in response to the letters of complaint and query that flooded Parker. R&D tinkering is so fastidious that game companies refer to themselves not as manufacturers of games but as publishers: Each game is an edition, each set a copy.

The protective secrecy in R&D labs rivals NASA at its most paranoid. Designers ready Christmas lines a year or two in advance, polishing their gems for display at Toy Fair in New York City every February. Even then, an original idea is protected by nothing more binding than an unwritten code of ethics. Whenever an R&D man changes teams, he is likely to be told: "We're sorry to see you go, but as long as you're going, why don't you go today?"

R&D people have to have one foot in corporate stodginess, the other in frivolity. "At one time," muses Parker's R&D chief Bill Dohrmann, "I thought I'd shake up the place with all kinds of flaming kooks. But I've gotten over that. Now all our people are dedicated professionals." And so these fun-fashioners are industrial designers—family men and women whose homes contain a Bible and a Monopoly set. But what these pros lack in Ludwig Von Drake, they compensate for in Wernher von Braun.

Parker initially rejected Allan Turoff's Find-A-Word. It was only through the persistence of one R&D man (who became so entranced with the game that he not only built his own set, but took it with him on his honeymoon) that the company eventually had a change of heart. Its R&D people set about testing the game, playing and replaying it, incorporating their own thoughts into the final product. They changed the Q to Qu. They altered the rules so that a cube could not be repeated in the same word. And they renamed it: Boggle. It was not a name Turoff particularly cared for ("sounds too much like that *other* word game"), but it was a name that, though randomly chosen, would be strategically exploited.

With no fanfare, Boggle was introduced in 1973 as part of a trio of bottom-of-the-line, low-cost word games—Fluster and Grapple were its companions—all similarly packaged, all minimally advertised and promoted, all losers. Rarely will a game that fails be given a second shot. But there was something about Boggle that bespoke promise. It was a game that Parker's own executives loved to play. While no one ever expected great things from Boggle, there was one quality that couldn't fail to impress. It was addictive. The susceptible can't play the game one time and let it go at that. No, it demands to be played again and again. Addiction is a trait that no amount of genius can intentionally inject into a game. Great games may lack this instant-replay compulsion and still be great games—Monopoly and Scrabble come to mind—but small concepts have been fortified by its presence. Backgammon is addictive, as is pinball. Given the choice between a game that might attract a massive but ambivalent audience and one that will lure a smaller but more fanatical following, a games executive might well bank on the latter.

Such was the rationale in 1975 for resurrecting Boggle. The game was restyled for coffee-table appeal. One crucial modification was instituted: A transparent dome was added to the set so that now, instead of each player's rolling the cubes and placing them in the square tray, all the cubes are dumped onto the grid, the dome placed over them and the whole contraption shaken until each cube comes to rest in one of the 16 slots. In this way, players are

Jerry Lazar once chalked up "CAT" on a double word score. Mark O'Donnell builds hotels on Baltic Avenue.

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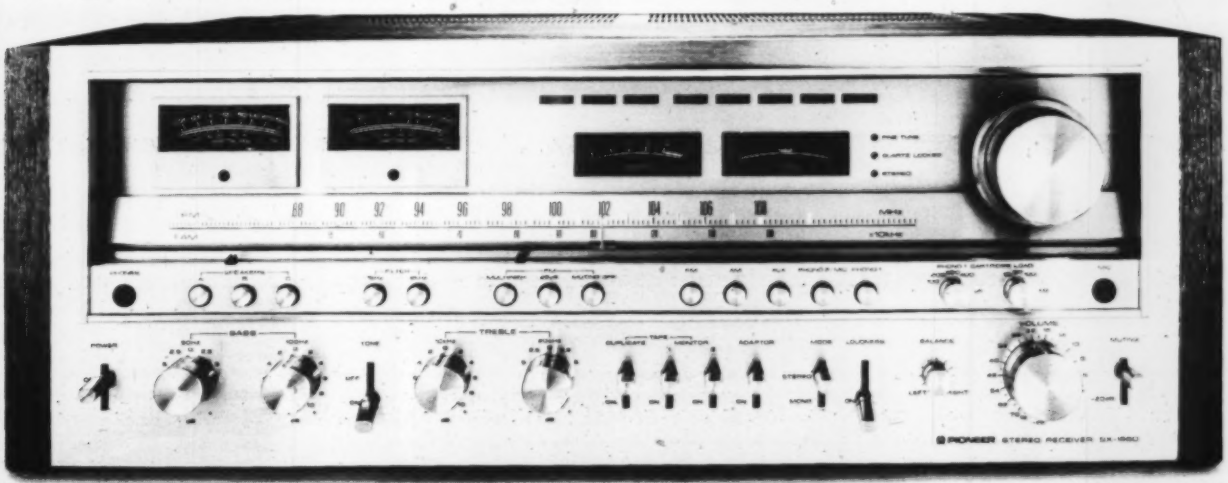

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freed of the responsibility of arranging the letters themselves; more importantly, it calls upon a basic axiom that market test studies bear out—people love to shake things. Still, no amount of revamping or repackaging was going to propel this reincarnation if Parker did not promote it.

The expense of releasing a new game has become so extreme that, as in the cinema industry, its producers can ill afford a turkey. Fewer games, with larger sales, are striven for, and they are unleashed only after the most thorough research-and-testing period. Within the last five or six years, game companies have gone so far as to hire psychologists as full-time consultants; less and less is an executive likely to rely on seat-of-the-pants judgments. But the truths unearthed by scientific methodology (for example, people prefer the clunk of wooden dominoes to the clink of plastic ones) are no guarantees against disaster. Parker president Randolph Barton says, "Market research is important to us, but despite all the sophisticated techniques, there is a need for one's own intuition. We've had more successes when we've followed our own convictions. I had

three company officers in my office playing a new game the other day, really whooping it up, and I don't care what the studies for this one might say. It's going to be a big one. When we believe in a product, we can make it happen."

Making it happen means proper marketing technique. Television advertising adds 50¢ to the retail price of any game, and, with ceiling prices on family games rising from $15 to $50, every little boost hurts. Celebrities may be brought in to plug a game with personal appearances (e.g., George Plimpton at a Father's Day playoff at F.A.O. Schwarz) or in a TV commercial. Even the game inventor may get into the act; Turoff is now on a five-week promotional tour of nine major markets. In the case of a perennial favorite like Monopoly (10,000 sets produced a day), Guinness World Record hopefuls are encouraged to play in moving elevators, under water or in treehouses. Parker stages periodic national and international championship games, with extensive and expensive backdrops for what looks to be the grandest put-on since the Pet Rock. Before a glitzy grand finale in Monte Carlo, the 1977 U.S. finals were conducted at New York's elite Four Seasons restaurant. During a catered buffet brunch, patiently grinning celebrities of the generally-available status (Peggy Cass, Miss New Jersey, etc.) mugged through a warm-up match. A 14′ × 14′ replica of the board served as center stage. Monopoly money arrived in a wailing Brinks truck, and tensions were encouraged to run high. Parker's PR people stood in the rear of the hall, grimly leading the applause, peering mistrustfully at onlookers, sus-

The Joy of Winning

No one really knows what makes a game fun, but one thing is certain: It doesn't come from *playing nice.* Though the fat boy in your gym class extolled the virtue of amiable cooperation, those more attuned to Western thought prefer the gratification of world conquest (Risk), foreclosure (Monopoly) and all that goes with Payday. Exactly what will amuse people is elusive beyond market research. Millions are made and lost accidentally in the games business, an industry that is itself a playing field where one move can mean Easy Money . . . or Sorry.

Parker Brothers president Randolph Barton (whose grandfather, George Parker, founded the company in 1883 and was its only true games inventor) started in the R&D department and spent his first few months on the job trying to compile a list of criteria for a good game. He took the finished list to his cousin, an executive vice president, and listened with fascination as his cousin ticked off each principle by naming a high-quality, successful game that violated it. The best one can do, the young Barton learned, is to observe trends and then be on the lookout for new trends that defy the laws established by the old ones.

There does seem to be one element common to all successful games, and the mere mention of it is sure to elicit a response of "So what else is new?" That element is *winning.* "That is important," says Milton Bradley product manager Jim Walsh. "It's so simple, so obvious, that it's often overlooked." Clinical psychologists have learned that pigeons will perform simple tasks for the sole reward of being exposed to another pigeon they can peck at. Humans, clearly, are no better. "People like the idea of being recognized as having done something better than another—even momentarily," says Walsh, and a glance at just some game titles suggests the sort of dominance winning a game can afford: Billionaire, Movie Mogul, Ego Trip, Mr. President, High Finance, Supreme Court Judge. If you can't live the life, at least you can play the game. (Avalon Hill, another games manufacturer, once hired a retired military commander, who had helped defeat the Japanese at Midway, to be a consultant in its re-creation of that 1942 battle in board game form. Reportedly, the admiral doesn't much care for the game and frequently loses.) Mastering games is a "perceived skill," however slight or illusory. Game advertising blatantly peddles the if-you-can-win-at-jacks-you're-Napoleon ethic. The ad message for Rail Baron reads: "'Harold,' she whispered softly, 'I never knew what a winner you were!'" And power can be found in familiar places (Lie Cheat & Steal, The Game of Political Power) or in strange ones (The Cleveland Wrecking Company Game: "Score points by knocking down the building like a real pro"). How turn-of-the-century Americans got their jollies from Parker's Office Boy or Corner Store baffles the modern mind. But don't hold your breath waiting for Parking Lot Attendant, Busboy or Night Watchman.

Cooperative and noncompetitive games are historically duds. "What can you do, out-love your opponent?" asks Parker's Bill Dohrmann, referring to a noble hippie-era flop called Oobi, a message-relay game that aspired to make any or all 200 million Americans participate in a sentimental cross-country Valentine delivery.

It matters not whom you stomp, but that you stomp. Ouija is not the only oracular board game; every round of every game is fate in miniature, a dry run of what the players' lives are like. Not even the most sophisticated can resist interpreting the results of a game, however arbitrary, as comments on themselves. Every victory, every loss *matters.* Life, Careers, Risk—here it is, a thousand little destinies in the privacy of your own home. ●

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picious of the crowd's ability to have fun. After the celebs retired, the real contenders launched their game, while assembled guests observed their progress on a colossal closed-circuit TV screen whose clarity rivaled that of the Zapruder film. The winner was 21-year-old Dana Terman, an assistant manager of an Arthur Treacher's Fish and Chips restaurant who had won a regional competition in Washington, D.C. Had the young victor ever been so wined and dined in his life? "Just once," he said. "I was the star witness for the defense in an auto accident."

Four hundred thousand dollars was poured into Boggle's TV ad campaign. New York City was the first market concentration. In spring 1977, novel messages began appearing on New York subway placards. One pictured an attractive young couple in bed, covers tastefully pulled up to their necks. Between them, Boggle. The husband looks frustrated. The slogan: "Hello Boggle, goodbye love." And in smaller print in the corner: "An addiction from Parker Brothers." Another ad featured a physician peering dolefully over his bifocals: "There is no known cure for Boggle." Never mind that the ads don't show or describe how the game is played. Parker *knew*: the hook was the thing.

Ed Radding, then Parker's marketing director, was recruited from Proctor & Gamble and so was not unfamiliar with the ways in which a name can paint its own imagery. What does "Prell" mean? he asks. Or "Ipana"? And so New York commuters were asked by photographs of alluring women: "Boggle on the first date?" "Boggle with the boss?" An image was molded.

Where the ads stopped, word-of-mouth took over. There is no better promoter than a satisfied customer, and there is no better proving ground for this than the games industry. "People don't say, 'Hey, I just used a sensational deodorant!'" notes Radding. "But they do say, 'Hey, I just played a sensational game!'"

This time, Boggle took off. Parker shipped more than 1 million sets. Sales quadrupled in New York, doubled nationwide. In the end, it was the makeover, the promotion, the glamor—the Farrah Fawcett syndrome—that did it. "But," says Ed Radding, "our star had talent."

Making it from square one to the winners' circle had for Allan Turoff all the ingredients of a good game: an equal blend of luck and mastering of the rules. The path he traveled was a conventional one: After graduating from Pratt Institute, he held a succession of jobs as an industrial designer. It wasn't until 1963 that he designed his first game, Flip-A-Basket. Press a lever and a little man flips a little ball into a little basket. Now, at the age of 48, he has a best-seller, his first invention that stands a chance of outliving him; but it is only after the fact that he has given much thought to what about the item might be fun.

• Boggle is competitive, but not combative. In chess, one player's good move is another's nemesis. In Boggle, there is

no such attack/defense strategy.

• There is no player interaction. As in golf or bowling, the presence of other players alters your performance only from a psychological perspective: Nothing is quite so irksome as staring at the Boggle matrix dumfounded as your opponent scribbles away madly.

• It is noiseless. Again as in golf or bowling, players are able to avoid conversation during the short "concentration" period and exchange banter between play. How do you suppose Bingo got so popular?

• Play is simultaneous. None of the wake-me-when-it's-my-turn boredom, the major drawback to Scrabble. According to Parker president Randolph Barton, there is only one hard and fast principle required for a workable game. "If every player is not interested continuously throughout the game in his own play *and* his opponent's play, it is probably a dull game." In Boggle, there's no waiting.

• It's quick. The antithesis of Monopoly, Boggle takes three minutes to play, three more to score. Next game. If Scrabble is haute cuisine, Boggle is popcorn.

• It's easy. A minute to learn, a minute to master.

• Every game's a new game. Figure for yourself how many permutations and combinations there are of 26 letters on 16 cubes in varying frequencies: 5.6×10^{25}. You could cover the earth with Boggle trays 18 miles deep and change

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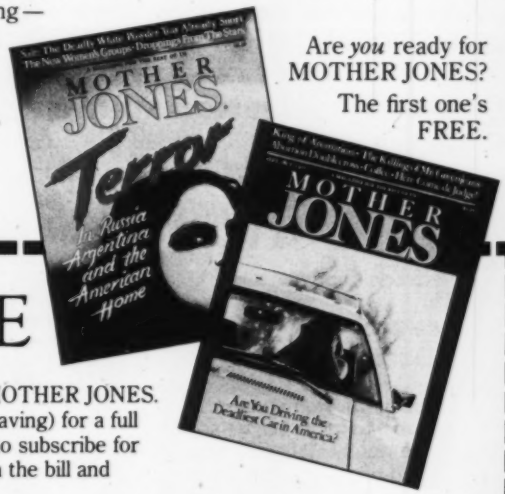
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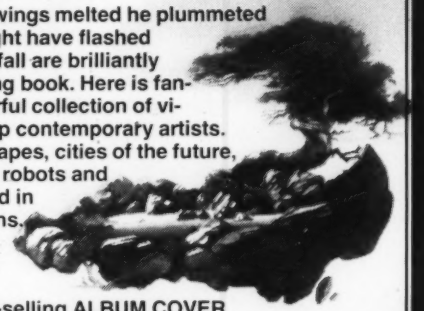

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each tray daily for ten years with no repeats.

• You've seen it somewhere before. Familiarity with a game principle accounts for a lot, and anyone who takes a fancy to Boggle is likely to be the sort who has fooled with anagrams or whose eye has been trained to perceive that *reward* and *straw* spelled backwards are, respectively, *drawer* and *warts*.

• The price is right. For five bucks, you can't find a better house gift.

Allan Turoff might as well forget about adapting these principles to some other new blockbuster game. He's professional enough to realize that it doesn't always work that way. Instead, he might give some thought to improving Boggle. A deluxe edition, perhaps, with a 5 × 5 grid or a timer that dings so you don't have to keep looking at it. But for now he'll have to be content with the fast big bucks and the sudden prestige he's gained in the industry. *Now* they'll look at his ideas a little more closely. Still, he's not quite his own boss. "I'm always showing something to somebody," he moans. "That's the frustrating part."

Will he repeat his success? Probably not. In the small pantheon of inventors of classic games, few have struck gold twice. Monopoly inventor Charles Darrow tried with Bulls and Bears, a stock market game. It bombed. Scrabble inventor Alfred Mosher Butts generated an idea for a domino-type game, but he was talked out of developing it by a colleague who assured him that it could never do so well as Scrabble. Turoff differs from both Darrow and Butts in one important regard. Monopoly and Scrabble were invented during the Depression by men who were out of work and who had one thing on their minds: easy money. Darrow was a heating engineer; Butts was an architect. Each gave us only one game. Turoff, on the other hand, is an established pro, and he knows his field well enough to understand why his overnight success breeds self-doubt, why game-inventing is more art than science, as much luck as skill. It keeps him wondering how many could-be Boggles are in his reject pile. "So, yeah, now I've got a game that's successful," he says, "and I find myself going on talk shows and spending indecent amounts of money. But . . . ."

But it all makes him think of something that happened to him in 1955 when he was a younger man, still in college. The Museum of Modern Art was featuring the now-famous Family of Man Exhibit, and there among the 503 great pictures was a photograph snapped by . . . Allan Turoff. Turoff went to see the exhibit, of course, and when he got to his photograph, he paused for a moment and thought, *Here I am . . . but . . . I'm not really that good . . . am I?* ●

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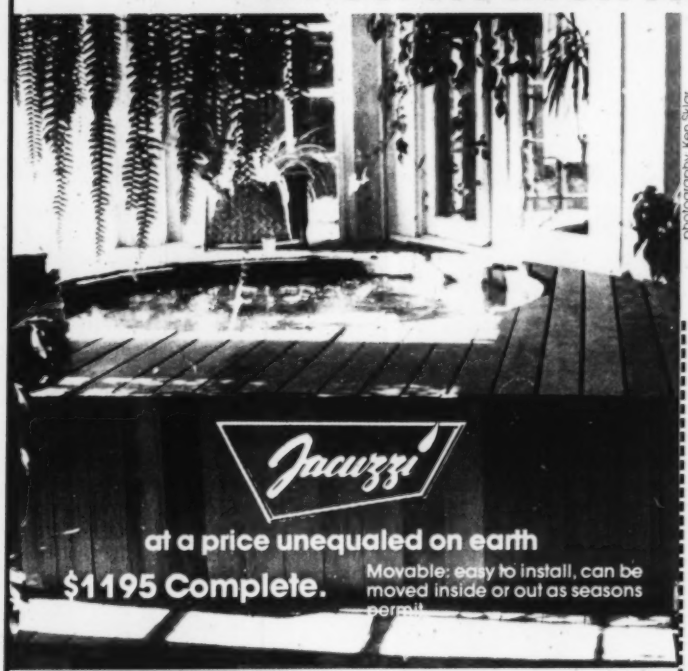

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THE SELLING OF MR. GARY COLEMAN

Reggie Jackson, step aside! Graig Nettles, Bucky Dent, Ron Guidry—buzz off! The *real* star of the World Series was a baseball-bat-high ten-year-old black kid named Gary Coleman, who was there to pitch a series of his own. No sooner would Reggie finish his turn at the plate than a March-of-Time voice would announce: "Mr. Gary Coleman speaks out on air pollution." Then this chubby-cheeked, gap-toothed, wire-haired kid would say something like: "Don't look at me. I'm drivin' a tricycle." Or if it were marriage: "One thing at a time. I ain't even had a dog yet." Then there would be a freeze frame while the announcer added: "Watch for the new Gary Coleman show, coming soon on NBC." No title, no time, just "the new Gary Coleman show," for this was a "teaser" campaign of ten-second promos designed less to plug a specific program than to create an overnight sensation, a child star in the old Hollywood tradition. By the third game of the Series it was clear that when it comes to being pushy, Judy Garland's mother had nothing on Fred Silverman.

With the movie industry concentrating on a few blockbusters every year, television has taken over a lot of Hollywood traditions, if only because of the sheer amount of "product" available. The demon-children of a half-dozen recent *Exorcist*-like films may be good for an occasional high-voltage jolt at the box office, but when it comes to week-in-and-week-out durability there's nothing like old-fashioned cuteness. Of course, cuteness, like demonology, is simply another way of refusing to accept children as children. They become little adults who either look old and act young or look young and act old. The cuteness is in the discrepancy. It's a way of domesticating something most Americans secretly fear—or, in the case of Gary Coleman, two things—children and blacks. From being conspicuously absent on television when the racial heat was on, blacks are now prominently featured in many programs and most commercials on the air. Given the laws of cultural expediency, a black child star was

inevitable. For better or worse, the revolution was clearly behind us the moment Black Is Beautiful became Black Is Cute.

Gary Coleman is the Charmin of kids, squeezably soft. Total strangers are always stopping him on the street to pat his head, pinch his plump cheeks, rub his tummy, pick him up to hug him or plant wet kisses on his mouth. It can get to be a drag, this business of catering to your public. He's also a very bright and remarkably unspoiled kid with the manic energy of a wind-up toy; when he turns around you half expect to see a key sticking out of his back. A victim of a congenital kidney disease, he had a successful kidney transplant at the age of five and has been, as his mother Sue Coleman puts it, "off and running ever since." Fashion shows for a Chicago department store led to an award-winning local commercial and then regional spots for Bisquick, Nestlé and McDonald's. Then the summer before last a talent scout for Norman Lear's Tandem Productions company, casting an updated version of *The Little Rascals* for syndicated television, brought Gary and his mother to Los Angeles. Nothing much came of the show itself, but Lear saw a tape of a pilot episode and said to an associate: "We've got gold in that kid." Gary was signed to a long-term contract; he appeared last year in episodes of *Good Times* and *The Jeffersons* and, most successfully, in *America 2-Night* as the host of his own talk show, "America After Lunch." Fred Silverman, then still at ABC, caught one of Gary's appearances, also spied the glint of precious metal, and asked Lear to build a series around him.

The sitcom Lear's company developed, originally called *Forty-Five Minutes from Harlem*, was about a millionaire widower named Drummond who promises his black housekeeper on her deathbed that he will adopt her two kids, the younger of whom would be played by Gary Coleman. But by the time the pilot script was ready, Silverman had left ABC and nobody else there showed any interest in the series, which had a much sharper racial edge than the present version. The project was offered to NBC a few weeks before Silverman arrived, with Conrad Bain, the next-door neighbor on *Maude*, cast as the millionaire and 13-year-old Todd Bridges playing Gary's older brother, Willis. According to Dick Ebersol, the network executive in charge of comedy development, when Silverman learned that he would have a second chance at the show, "his eyes lit up. If we were looking for a way to ingratiate ourselves, we had found it." No pilot was ever shot, an unusual procedure. The three principals were simply asked to show up at NBC's Burbank offices to read a six-page scene. Even that proved somewhat superfluous, as matters turned out. The actors and a dozen or so NBC executives were seated around a conference table waiting for Paul Klein, the network's rumpled, heavy-lidded programming chief, to arrive. When he walked into the room, Gary, who will say virtually anything that crosses his mind, blurted out: "Man, you got bushy eyebrows." Everybody cracked up over that, and a few minutes later the program "went to series."

The show, retitled *Diff'rent Strokes*, was made into a "softer" comedy and the location was changed for greater urban appeal from a Westchester estate to a Park Avenue penthouse. Care was taken that Gary would appear more vulnerable and less of a smartass than he was in the original show (a tearful scene was written into the opening episode for him). "He can't steal the scene if you hand it to him on a platter all the time," Lear explained.

But the real creativity came with Silverman's promotional genius, which may turn out to be his most lasting mark on American television. He had helped start ABC on its winning ways with a promotional blitz of the network's shows during the 1976 Winter Olympics, and was known to lavish an inordinate amount of his time and energy on in-house promos, often per-

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sonally selecting which scenes in a show should be spotlighted. Under his tutelege ABC had also proven conclusively that it wasn't the quality of a show that made it a hit but what television people call "breakout personalities." Some of the most successful series were keyed to a single popular character, such as Henry Winkler's Fonz or, this year, Robin Williams' Mork, and often had little else going for them. Now Silverman had a breakout personality and at the same time a World Series, with its nightly audience of 90 million. He devised the theme of the campaign and asked the show's executive producer, Budd Grossman, to write the lines for Gary. But the nice thing about a child star—the thing that must drive any actor who actually has to *work* at his craft up a fake wall—is that Gary can't miss. It's cute if he reads the lines correctly, cuter still if he screws up. Grossman sent the outtakes of the taping session, along with the rest, to NBC in New York. In one of them Gary said to the director: "Hold it a minute. I got my blue socks on backwards." That became the best spot of all: Gary Coleman on men's fashions.

As soon as it became abundantly clear that Joe Namath was much funnier selling pantyhose than cracking jokes on his own sitcom, *Diff'rent Strokes* was scheduled to replace *The Waverly Wonders* on Fridays at eight o'clock. Since a successful lead-off program can win the whole night for a network, promotional efforts for the show were redoubled. In the week before the November 3 premiere, dozens of "episodic" promos for *Diff'rent Strokes* appeared on NBC. Large ads were taken out in many newspapers and magazines—including a full page in the all-important *TV Guide*—for the "new Gary Coleman comedy series." Gary and his mother flew to Atlanta for a weekend-long round of interviews with television critics and talk-show hosts from around the country. The strategy occasionally backfired, as in the last taping of a grueling day, when Gary was asked by some hot-combed host for the zillionth time, it seemed to him, "What do you like to do for fun?" "I *do* like to have fun," he said wearily. "I'm a *fun* person. But how can I have fun when I got to do all these interviews?"

As the premiere approached, NBC, a network notably short on comedy, was nervously awaiting what promised to be its first sitcom hit since *Sanford and Son* in 1972. In an unusual counterprogramming move, ABC nervously replaced its regular eight o'clock Friday show with a special episode of *Happy Days*, normally a Tuesday night show. The producers of *Diff'rent Strokes* nervously scheduled a special Saturday taping session to do pick-ups of scenes from the first two shows. Only Gary Coleman wasn't nervous. He was in his dressing room playing with his new Lionel trains.

Model trains are the ruling passion of Gary's young life. Back in his home town of Zion, Illinois, he has a setup of small-gauge HO trains and accessories that look like a miniaturized but complete Amtrak. That morning the show's director, Herb Kenwith, had given him a box of Lionel trains that had been bought for the opening episode, in which Conrad Bain welcomed his new charges with everything from a stuffed donkey to a real pony. Gary was desperately trying to get the trains working before he could be called back to the set, when in walked 14-year-old Dana Plato, who played the millionaire's daughter, announcing that her smaller dressing room was "icky." She bent down to help Gary connect the tracks—and fit them together backwards. Now he *was* getting nervous. She picked up a train and, just as he cautioned her to "be careful," dropped it. A moment later, much to Gary's relief, the cast call came over the loudspeaker. Before leaving, Gary Coleman, speaking out with some distaste on the fair sex, announced: "Girls and trains don't mix."

Kids present special problems on a set. By law they can only work four hours a day and have to be tutored for the remainder (a midget stands in for Gary during school hours). They want to go to the bathroom at inconvenient times. They can't wait to get back to their dressing rooms to play with their trains. But even the most seasoned veteran could do without pick-ups, since they require an actor to go over—and over and over—part of a scene he's been having trouble with until the director thinks it's right, and everything has to match the original take for editing purposes.

The first episode of the show nicely plays off the culture shock of two kids from Harlem living in a penthouse. (Mr. Drummond: "Come on, boys, I want to show you my hot tub." Arnold's older brother, Willis: "You steal a tub?") Willis wants to go back to Harlem. Arnold, who thinks he's "died and gone to heaven," tries to convince Willis to stay. "Not one word out of you, Arnold," Willis finally insists. "Does this count as a word?" Arnold asks—and gives him a loud, slobbery razzberry.

For over an hour everything that can go wrong with the brief exchange does. Gary arrives at the top step of the bunk bed to deliver his razzberry too early or too late. Todd Bridges muffs his line. Gary's razzberry fizzles. At first he is properly penitent. ("Dumb! Dumb! Where'd I put my brains today?") Then he becomes slightly miffed at the unseen director, whose disembodied voice is heard coming out of a loudspeaker. ("Don't that man know how to say nothin' but 'Take it from the top'?") Gary and Todd begin to wrestle playfully between takes, driving the show's hair stylist, wardrobe lady and set dresser bonkers, since the master shot on the monitor must be duplicated down to the last fold on the bedding. Finally, the director, hidden in a basement control room, asks: "Can you manage one more razzberry for us, Gary?" Gary does a slow, disbelieving take to the loudspeaker hanging from the sound-stage ceiling, inhales deeply, puts his thumbs in his ears, waves his other fingers and produces the loudest, slobberiest razzberry of the day.

But generally Gary is the consummate ten-year-old professional. The day before *Diff'rent Strokes* premiered, he taped a *Today Show* segment in an unoccupied office at Tandem, taking time off from a hectic shooting schedule at Fred Silverman's insistence. He helped his mother with her clip-on mike, asked for Scotch tape to remove some lint from his pants and knew exactly how far he would be pushed by interviewer Jack Perkins.

Perkins: "When did you learn you were a comedian?"

Gary: "When I first started crackin' jokes."

Perkins: "Crack one for us now."

Gary: "Now I only crack jokes that are written for me."

When Perkins tried to get Gary to talk about Arnold's pet goldfish, Abraham, he said: "It's just an ordinary goldfish. Nothin' special 'bout it. They got three stand-ins for it and one of 'em already died." Perkins tried again. How long did Gary want to work in the series? "Until I get my railroad all bought," Gary said.

It was only when Perkins asked him how he liked being a star that Gary got a bit wound up. "I *don't* like it," he said, his feet kicking against the front of the couch. "Let somebody else be a star. Even my name is first in *TV Guide* before Conrad Bain, and he's been on TV long before I was. I get too much publicity, too many pats on the head and first choice of this and that. The only attention I want is from her and Dad. I'm just a normal kid."

On the wall above the couch, in full view of the camera, was a large poster put out by the post office. It showed a hand holding a bunch of flowers to illustrate the message: "Properly Packaged Parcels Please." Why does Fred Silverman always have to get the last word? ●

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MOVIES/BY RICHARD CORLISS

GOODBYE YELLOW BRICK ROAD

Today's sermon takes as its text a verse from St. Paul's *Letter to the Californians*: "When I was a child I spake as a child, I understood as a child, I thought as a child; but when I became a man and produced the bumper crop of 1978 nostalgia movies, I forgot the difference between child*like* and child*ish*, and my movies suffered even unto perdition, though my grosses were still boffo."

Hollywood has turned one of its most profitable years ever by appealing to kids from six to sixteen—a mental and emotional age that, to judge from recent box-office figures, encompasses most of the American moviegoing public. But now, with two new releases, the studios are refining their market even further. *The Wiz* seems designed for ghetto kids who want to be pop artists—the same kids, presumably, who've been redecorating the New York City subway system with spray paint. *The Lord of the Rings* is aimed at another juvenile audience: the schoolteachers' sons and stockbrokers' daughters who have read these allegories of Britain at war and have, in their bright, daydreamy minds, already seen the movie versions.

Advance comment on **The Wiz** was not encouraging. From a member of the production staff, apropos the film's prospective audience and daunting break-even figure: "I just don't know if there are $60 million worth of black people out there." From a Hollywood insider, apropos Tony Walton's gaudy costumes and kindergarten-bordello production design: "For this movie to make money, every black hairdresser in the world is going to have to see it 12 times." When *The Wiz* was released, the money critics gave it more than its share of derisive pans—though it did get a rave from *The Black Hairdressers' Film Review*.

I'm of two minds about *The Wiz*—or, rather, a mind (that says "No, no!") and a heart (that says "Yes, yes!"). The mind can marshal half a dozen strong arguments for hating the movie:

1. It fights memories of three successful Oz incarnations—the L. Frank Baum books, the 1939 MGM musical, the recent Broadway show—and loses on all counts. When you're working to update a story that, in its various permutations, has captivated three generations of Americans, you'd be advised to perform radical surgery. Don't, for example, let your Scarecrow (Michael Jackson) muse that everything would be fine "if I only had a brain"; moviegoers will hum the familiar Harold Arlen tune right through your more anemic version.

2. Fantasy is a tricky genre: However surreal the logic, it must be followed scrupulously. *The Wiz* keeps slipping past fantasy into silliness. It's fine to say that Harlem is Kansas, that Manhattan is Oz and that Dorothy is a troubled, idealistic black girl whose dreams and nightmares come true in a trip to the Emerald Fun City; but it suspends disbelief beyond the snapping point to make Dorothy (Diana Ross) a 25-year-old who's "never been below 125th Street." This girl must live in Albany, not Harlem! (From the look of Auntie Em's lovely suburban-type house, Dorothy and her folks may actually live in that little patch north of 125th Street called Scarsdale.)

3. The film's structure and pacing are inept. Every moment of a musical—the rhythm of the dialogue as well as of the songs, the varying of tempo from one song to the next, the placing of musical numbers fairly evenly throughout the show—must be choreographed as carefully as the dances. In this *Wiz* you're more likely to get a cluster of ballads, then a long stretch with no songs at all, then an overelaborate production number. The MGM *Wizard of Oz* is a model of musical construction; those connected with this version would have done well to check it out.

4. *The Wiz* was filmed in New York—and, throughout production, was touted as the biggest imaginable "I Love New York" ad. So why did Tony Walton and director Sidney Lumet go to so much trouble to disguise the city's baroque wonders under tons of glitter and Day-Glo? Why make *The Wiz* the first masquerade party ever thrown for buildings? If you were to make a movie about the splendors of the Taj Mahal, would you first have Cristo wrap a huge curtain around it? Lumet has said: "The best compliment I've gotten from really good movie people is that they don't know what I shot on location and what I shot in the studio!" A director who's proud of never having made a movie in Hollywood may well take this confusion as a compliment—but it's not, because *everything* looks as if it was shot in the studio. *The Wiz* could have been made at Cinecittà, or in Cleveland. The movie loves New York the way a plastic surgeon loves his dowager client who's just asked for a complete overhaul.

5. Money. *The Wiz* is *not* one of those multimillion-dollar movies whose utter failure makes you com-

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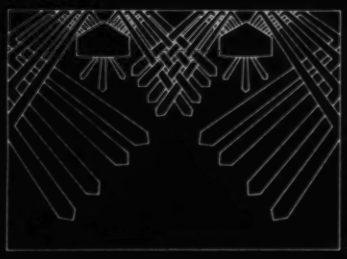

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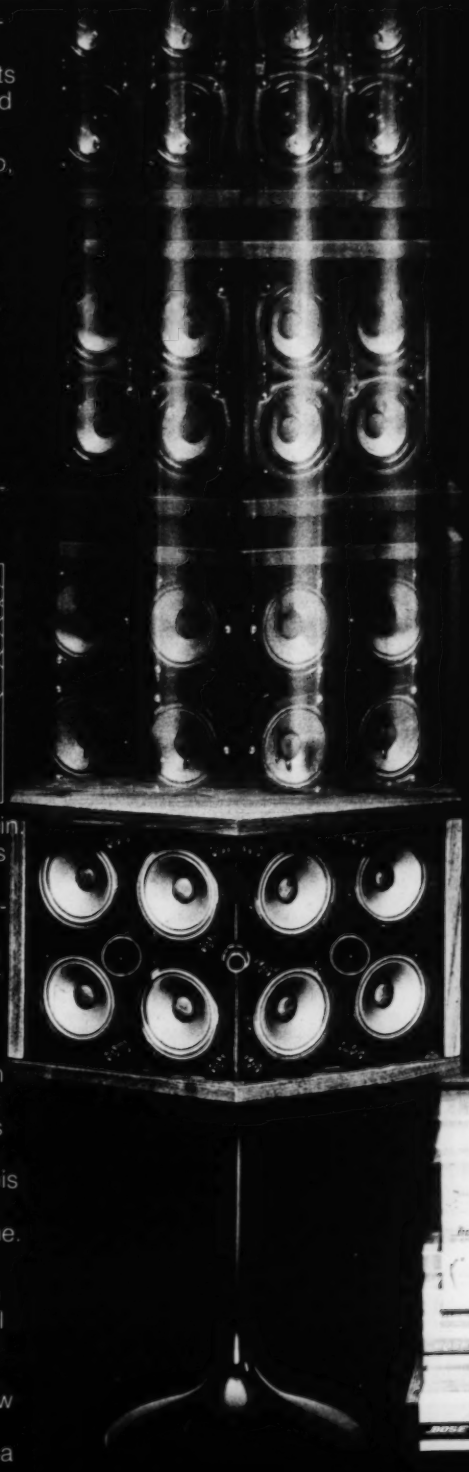

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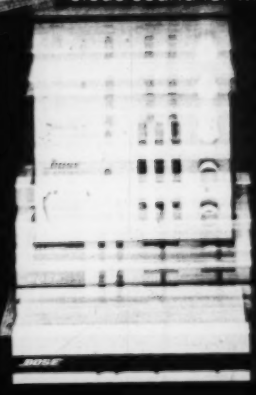

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pute the number of starving Nigerians who could have been fed for a year on its bloated budget . . . but it also doesn't look like the most expensive musical ever made. And when the money is up there on the screen, it's often either irrelevant extravagance (like one number featuring 1,200 costumes that stops the show—i.e., brings it to a grinding halt) or hard to enjoy

The Wiz is the first masquerade party ever thrown for buildings

(like the sweatshop number: The slave costumes may be ugly-lovely to look at, but because they're almost always filmed in long shot, we don't get a chance to appreciate their concentration-campy designs). For all this I blame Lumet. There seems to have been a lot of talent and glamor on those streets and sound stages; it was Lumet's job to put them on the screen where we could see them. He blew it.

6. Diana Ross. This lady is no virgin schoolmarm. Her aristocratic, Eartha-Kittenish sexiness has elevated the former Supreme from Motown to Vegas (the true Oz for ambitious black performers). She was respectable as another haunting chanteuse, Billie Holiday, in *Lady Sings the Blues*; and trashy fun adorning *Mahogany*, another black-hairdresser movie. But throwing her in as *The Wiz*'s box-office insurance is one of the major miscastings of the decade. Ross must recognize this: All that *angst* she projects *couldn't* be acting. Whatever the motivation, she does play Dorothy with Judy Garland in mind—the late, frail, neurotic Garland. Dorothy really has little to do but act as straight man to a bunch of minstrel-show strutters. But my concerned interest kept returning to Ross as she stood shivering off to the edge of the frame, looking as if somebody had given her nerve endings an Afro.

So. There are plenty of reasons to despise *The Wiz*. And yet, I kinda (gulp) liked it. Inside almost every film critic there's an easily pleased, grotesquely sentimental, average moviegoer screaming to say his piece. While the critic in me was carping away in the dark, the moviegoer was tapping his foot, ogling the sets and mattes, smiling back at Nipsy Russell (Tin Man) and Ted Ross (Lion) and in general having a good time. I offer no justification for my guilty pleasure. But perhaps even critics should be permitted, say, alternate Thursdays off—a few hours to enjoy a poorly made but energetic movie—a time to be childlike *and* childish.

Okay, back to grading papers. For his book report on **The Lord of the Rings**, Master Ralph Bakshi—the sassy kid who usually sits in the back row drawing dirty cartoons on the inside cover of his copybook—turned in a series of sketches for the major characters and events in J.R.R. Tolkien's majestic tale of Middle Earth. The class was surprised and impressed by the serious devotion Ralph had brought to his project. Some students expressed disappointment on seeing Ralph's visualization of the Hobbits: basically Disney children, but with faces that looked like either Mason Reese (Bilbo) or Buddy Hackett (Sam Gamgee), and with legs as heavy and hairy as a Bulgarian nun's. And as Master Bakshi flipped through his drawings for the benefit of the class, some of the students who had not read the book were baffled by the holes in his version of the story. "Go slower!" one child shouted. "Where's Tom Bombadill?" cried another. Ralph was unperturbed. "You want words, read the book," he replied. "You want pictures, I got pictures."

As pictures, Ralph's report deserves an A. He has used several different styles: Those afternoons he snuck into the art-book section of the school library were clearly well spent. His drawings in the prologue seem to have been made through burlap; in other places he traced photographs to produce a realistic effect; elsewhere he relies on the traditional cartoon look and feeling. He confided to me that he stayed up very late last night working on his report, and sometimes the strain and rush show: Characters change appearance without warning, and at times a figure looks unfinished (Aragorn, the noble leader of Men, has the face of a very hasty pudding). And though he hurries through many narrative links, he lingers over battle scenes like a pint-sized Peckinpah.

The class was fascinated, all the same, and would have broken into applause at the end of Ralph's report—if only it had ended! Instead, it simply broke off, in the middle, like the climax to Chapter Eight of a *Buck Rogers* serial. The students, who had expected the full trilogy, were none too happy when Ralph intoned, like a countertenor Alexander Scourby, "Here concludes the first part of the history of the War of the Rings." "Fraud!" cried the maddened dozen. Ralph just shrugged and said, "Got tired."

As amused as I was by much of Ralph's report, I had to give him an Incomplete. ●

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RECORDS/ BY JIM MILLER

CAPTAIN BEEFHEART SHINES ON

The usual crush of Christmas releases has produced a paucity of music that is exciting as well as commercial. Old favorites have faltered, while new ones have timidly exploited time-honored formulas. There is no artistic popular triumph to match last year's *Saturday Night Fever* or Stevie Wonder's *Songs in the Key of Life*, a seasonal hit in 1976.

Typical is Billy Joel's **52nd Street** (Columbia), in many respects the most artfully assembled collection released this fall by a singer-songwriter. Working the same vein of class-conscious urban romanticism mined by Bruce Springsteen, Joel credibly evokes Elton John ("Honesty"), Paul McCartney ("My Life"), the Righteous Brothers ("Until the Night") and even the jazzy cool of Steely Dan ("Zanzibar"). While it is all very pleasantly executed, I haven't yet developed much of a tolerance for his blubbery vocal crescendos, which are apparently intended to convey deeply felt "emotion." Still, the extent of Joel's achievement can be quickly gauged by a comparison with Elton John's latest, the hapless **A Single Man** (MCA).

Neil Young, the shaggy dog of West Coast rock, has survived with considerably more dignity. After a string of critically acclaimed hard-edged rock albums, Young on **Comes a Time** (Reprise) has returned to the soft-core romanticism that originally won him a wide audience. Those who enjoyed *Heart of Gold* should enjoy Neil's latest as well, since its set of love songs exhibits a consistent musical texture, an attractively folky mix of strumming acoustic guitars, hovering fiddles and Nicolette Larson's cooing soprano. Young's Kafkaesque voice can be rather whiny, and his lyrics occasionally seem dippy; but that, perhaps, is only to be expected from our last honest hippie.

Hard-rock aficionados also have an uneven lot of new releases to pick from. Perched near the top of the charts is Boston's **Don't Look Back** (Epic), a slightly constipated but carefully crafted LP of Saran-Wrapped heavy metal. Aerosmith have come out of the studio for **Bootleg Live** (Columbia), a two-record concert set that mercilessly exposes Steve Tyler's limitations as a vocalist. More satisfying is Heart's **Dog & Butterfly** (Portrait), which smoothly displays this band's post-psychedelic marriage of Steeleye Span, Led Zeppelin and Janis Joplin.

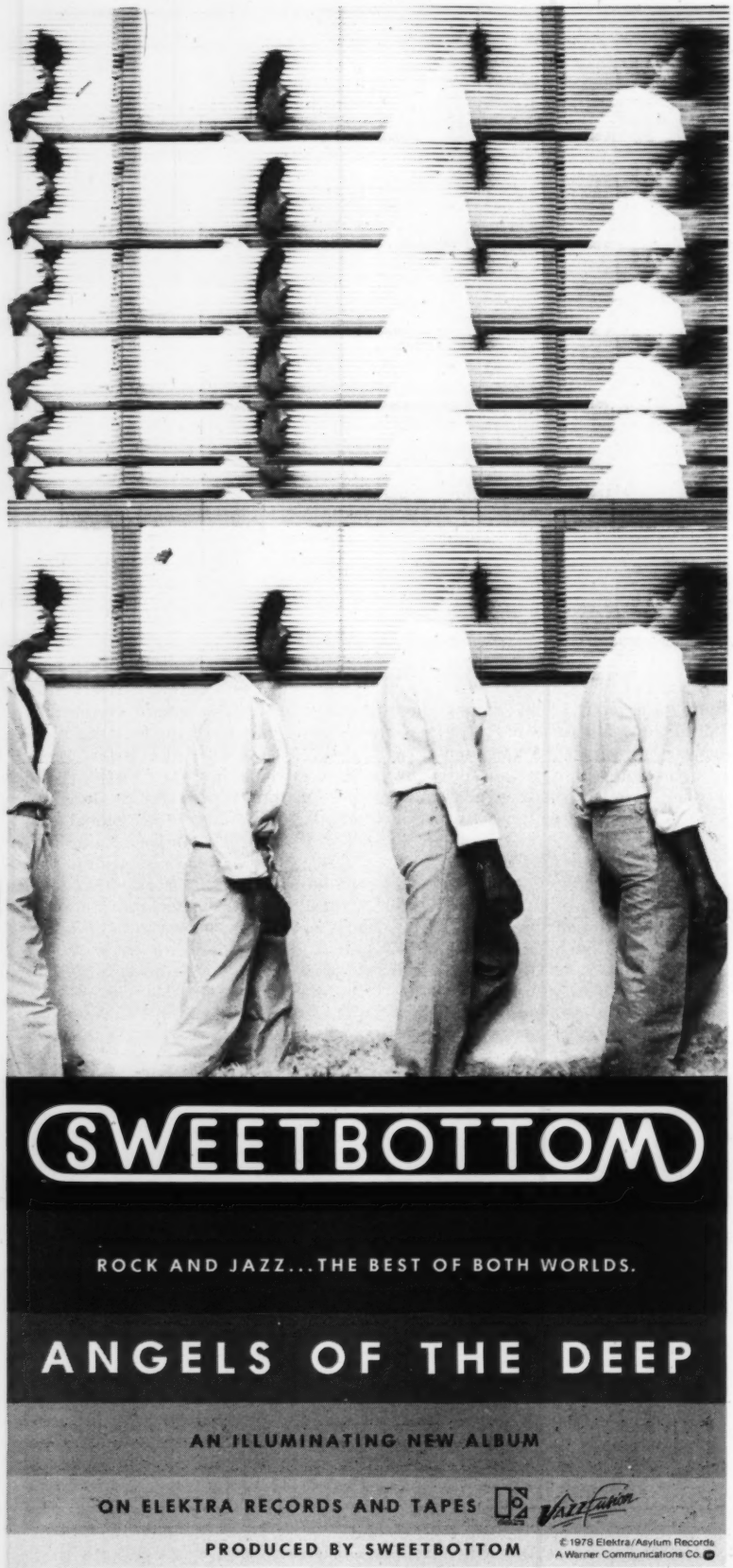
I am compelled to report, however, that the real eye-opener in this Yuletide's crop of new releases belongs to one of the most difficult of rock artists, Don Van Vliet, a.k.a. Captain Beefheart. His first new album in more than four years, **Shiny Beast (Bat Chain Puller)** (Warner Bros.), ranks with his best previous work. A veteran of the sixties, the Captain had his first album released in 1967; *Trout Mask Replica*, generally regarded as his masterpiece, appeared in 1969. Thanks to the unswerving integrity and intensity of his finest music, you may never have heard of Captain Beefheart. He is not easy to listen to. Yet the homage of imitation has recently been paid him by a number of New Wave bands, and he stands as one of the most underrated influences in rock and roll.

Like Harry Partch, Don Van Vliet is a wholly American kind of musical primitive, an artist whose genius consists in the utter individuality of his vision. In his music and lyrics, Van Vliet recreates the world in a way that frustrates our ordinary expectations. The sonorities he prefers are customarily considered ugly; his lyrics are commonly regarded as trippy, if not simply incoherent. For his new album, Beefheart has stuck with a harsh slide and fuzz guitar front line, although he has softened the sound a bit by using marimba extensively and adding a trombone. The amplified shrillness of the guitars leaves no doubt that this is rock and roll. But the horns—Van Vliet himself plays soprano sax—recall Albert Ayler and Eric Dolphy, and Beefheart's writing—every piece is a meticulous composition—recalls Charles Mingus and Ornette Coleman. Like Mingus, he loves to create a cacophonous polyphony out of sanctified shouts; like Coleman, he loves to play with sing-song melodies, developing mundane materials in surprising ways.

Beefheart's most intricate sound sculptures remind me of certain paintings by Fernand Léger, who occasionally portrayed sheet-metal-plated human torsos, gleaming with the finished sheen of bolted tubular steel. Yet in stark contrast to the industrial texture of Beefheart's instrumentals stand his growling vocals, an unlikely marriage of Wolfman Jack and Howling Wolf. Moreover, behind Van Vliet's entire outlook stands the blues—and not merely in the sense of occasional obedience to the 12-bar form, although there are nights I have heard him play the blues as toughly as any man alive. Instead, the blues enters into almost all of Van Vliet's work through his lyrics, which, for all their surreal montage, express feelings with an effect as unsettling as the language is indirect. (This is an important way in which

Accessible Beefheart: Don Van Vliet finds his audience

Photograph by Stephanie Chernikowski



Beefheart differs from Talking Heads, a band that in other respects has learned much from his example.)

Shiny Beast is being touted as an especially "accessible" Beefheart disk, although I have my doubts. Van Vliet has tried diluting and masking his distinctive sensibility before, with disastrous results; but that is not what is happening here. Rather, we are given a sense of the man beyond the fractured cubist soul haunting *Trout Mask Replica*. There are a couple of attractive instrumentals ("Tropical Hot Dog Night" and "Candle Mambo" are standouts), a handful of craggy new lyrics that could have come from no one else and one bluesy essay in what the trade calls "cock rock," although Beefheart's "You Know You're a Man," unlike the genre's archetypal "I'm a Man," subtly scrambles the sexual stereotypes it works with. Will this music find the audience it deserves? Perhaps, although, if you miraculously find a copy of this album under your Christmas tree, you might consider auditioning it privately before exposing the uninitiated.

For those who prefer their New Wave on the poppier side, let me recommend the Ramones' **Road to Ruin** (Sire) and Blondie's **Parallel Lines** (Chrysalis). The Ramones continue to refine their minimalist approach: Although they still favor breakneck tempos (perfect for pogo-ing), their new album introduces such innovations as the acoustic guitar and the mid-tempo song. But if the band is slowly but surely regressing to the sound of the Swinging Blue Jeans, circa 1964, it has not abandoned its avant-garde nihilism: "Hippy Hippy Shake" has made way for "I Wanna Be Sedated." (After a recent live appearance, Joey Ramone complained about being pelted with garbage, explaining that the kids had mistaken the playfulness and good fun of the music. Can he be serious?)

Pop rock of a slicker hue is presented on Blondie's latest album, a seamless send-up of the group's concept. It was produced by Mike Chapman, Britain's Pied Piper of teeny-bop pop, and the man who helped unleash Suzi Quatro on an unsuspecting world. Chapman has applied an appropriate polish to Blondie's brash panache, and the result is a wonderfully bright and compelling performance. One of those rare albums that is listenable all the way through, *Parallel Lines* may even convert a few more souls to New Wave.

But if none of these new records seems a fit gift, consider this: Phil Spector's immortal Christmas album is still in print. Perhaps the Ronettes singing "Frosty the Snowman" is just what Santa ordered. ●

BOOKS/BY GEOFFREY WOLFF

KINGDOM COUNTY HAS COME: WELCOME

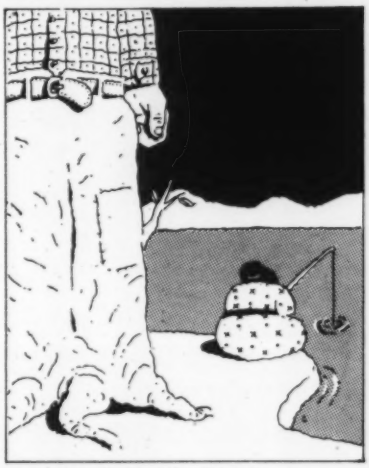
Where the Rivers Flow North
by Howard Frank Mosher.
Viking
(205 pp., $8.95).

This fiction writer has come out of nowhere—Vermont's Northeast Kingdom, his home and his subject. Howard Mosher's novel *Disappearances* was published a year ago; it evoked this primitive region he calls Kingdom County, where most are poor and many are luckless, where seasons change with brutal speed and the circumstances of life shift glacially.

Disappearances, nominally about running liquor across the Canadian border of this region, is told in the mid-1970s but set during Prohibition and the Depression. Typically out of sync with the rest of America, Kingdom County enjoyed an exuberant moment of opportunity during the Depression (because of Prohibition), and Mosher's prose has more of celebration than gloom about it. Nevertheless, the narrator of *Disappearances* meditates on the central question of this second book of fiction (the title novella and six stories): "Kingdom County—it remains a wonder to me that it was settled under any conditions."

Mosher's second book advances past the limits of his first good novel, and the novella is lovingly crafted, economical with scenes but lavish with a sense of lives being lived. Like the stories, and like *Disappearances*, *Where the Rivers Flow North* is about the consequences of climate and geography on people with the imagination to leave Kingdom County (but without either the means or the desire), and people who have bent to Kingdom County's implacable, bleak givens.

Mosher writes about the place with loving attention; but he knows how mean it is. As in *Disappearances*, he writes about its unlikely exploration and settlement (who would want to see more of it, having seen a little?), about its terrible nature: "It was a bleak time of year to travel through a bleak land, a morass of vast cedar bogs, white-water rivers, and thick coniferous forests avoided even by wolves and panthers because of the scarcity of smaller



game for them to feed on."

The novella tells of a logger, Noël, connected by family with Kingdom County for many generations, proud, willful, skilled, huge. To the people sitting around the town common swapping stories as night falls, feeding the legends and keeping the history going, Noël "became in their talk a kind of apotheosis of himself and his family, already in his own lifetime aggrandized into something more than an elderly ex-riverman who had outlived his profession."

This passage achieves a distance (short of condescension) from Noël's realities, and imitates the enhancing power of stories. In truth, Noël and his companion, the Indian ex-whore Bangor, *are* bigger and better, fuller of the juices of life, than characters I have encountered in any other recent American fictions. They are loved relentlessly by their creator, but Mosher knows that his love is not enough to provoke our love, so he gives them a wonderful story to live. It is a story about two people trying to horsetrade their way to the virgin timber of Oregon, fighting the power company, hunting a panther, cutting down a huge stand of white pines, fighting with each other, prevailing almost to the end, making their presence felt. To read about Bangor and Noël is to know someone has been here, forever.

This novella gathers Mosher's preoccupations from his looser first novel and his six stories, and knits them tight. He is obsessed with obsessions, especially when they achieve harmony between comic extravagance and grandeur of intensity. In the story "High Water," a wife tells of her husband's almost insane determination to race his car at a track in Canada, despite awful rain, a broken bridge and a closed racetrack. The couple, accompanied by her father, who loves bad fortune, undertake an odyssey that resembles in its assortments of singlemindedness the burial journey in Faulkner's *As I Lay Dying*. In "Burl," told by a woman cursed with a man's name by her father, she will not ease up on her hatred of her father and brothers: "It has been a comfort to me in hard times to think of them roasting on Satan's spit in Hell."

The dominant quality of Mosher's fictions is an almost aggressive acceptance of what is. This can include death, which quickly takes Burl's two husbands; she turns bitter, and then feels the bitterness lift: "Then I saw, or thought I saw, that there was nothing more life could do to me because there was nothing more I cared for." Or it can show the would-be racer staring at his ruined car sunk beneath many feet of muddy, roaring water, holding a chain to haul it out and begin again. Or it can be the wife in "The Peacock," about to be widowed, telling her husband to stop talking about a job next year in the local mill: "'You wouldn't be able to stand it.' There was no rancor in her remark. It was simply true." Or it can be Henry Coville (who appears in *Disappearances*, and in the novella), about to kill himself in the best of the stories, "Kingdom County Come," a kind of coda to Hemingway's "Big Two-Hearted River."

Here, as in Hemingway's best piece of fiction, a man travels alone through barren land, and fishes a river, and faces a treacherous bog. Like Hemingway's hero, Mosher's has been hurt in World War I. Hemingway's hero is young, and lives to fish the swamp. Coville is at the end of everything, yet there is more sense of discovery in Mosher's story. Coville enters a deserted beaver lodge to finish a bottle of whiskey, and cut his wrist. He has carefully sunk his canoe. He is old, has lost one lung in the war; now the other one is going. "Nothing surprised Coville now and he was puzzled by nothing. He understood that everything that had happened had helped prepare him for this time in this place."

The people of these fictions achieve such nobility of acceptance by the exercise of meticulous rituals. Hemingway would have understood these people, and so would have Faulkner. Here

ILLUSTRATION BY STEVEN GUARNACCIA

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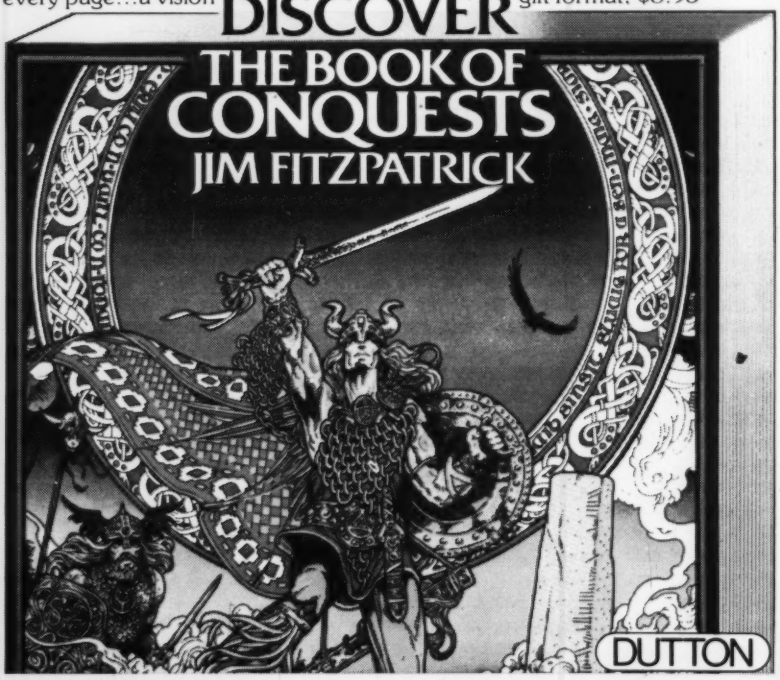

the survival of the race depends on the fitness and regularity of acts. Coville dresses his last day on earth "with the concentration of a man who had learned as a boy of twelve to concern himself with small things such as properly lacing his boots in the early morning before going to the woods." In the story "First Snow," a brother turns against his brother for encouraging friends to shoot a doe, when there is no season on does, and where the hunters were not welcome to hunt. This was the violation of rite, and the outraged brother calls the game warden to assert his "right to own private property and obey the law on it."

Everything counts, every small act: "No matter how fatigued he was Noël always washed after a day in the woods." As hardship temporarily wears him down, he begins to let himself go, and then finds a dream to obsess himself with, and brutal work to do. He recovers his balance; and this is signaled by the resumption of a simple ritual: "He began to shave every morning as he had never neglected to do when running a crew."

I wish I could suggest all of the wonderful properties of this novella. Many times in the reviews I write for this magazine I have asked readers, with implicit urgency, to share with me what I have just experienced. Usually I trust my characterization of a book to leave a sense of it full enough to suggest to you whether you wish to share it. On behalf of this novella, I want to do more. I want you to know that there is a love story—about a balding, gumless ex-whore and a logger who wears a hook where his hand should be—that I am afraid to crush in summary. I want you to know that the novella is at once noble and savagely comic, and so tightly constructed that I cannot pick at this or that thread without unweaving the whole thing.

Where the Rivers Flow North deepens Mosher's exploration of stoicism ("Your father is what he is"), and the complicated ways people endure what seems to be misery. Bangor loves to fish, and never catches fish: "Luckless and ebullient, she fished on into the rainy afternoon." She loves misfortune, too, because it can be depended upon. "So long as all was wrong with the world, Bangor was content." For all this, she is joyful beyond words, or almost beyond words. She wears a red dress when she kills herself, and she buries Noël as rain turns to snow, and does it the right way, carefully, without resentment, having watched him fight death unto death, loving him for that, and glad to have lived for a time. On behalf of this novella, just this once, let me dust off the hack reviewer's tag line: Please read it. ●

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MINE CONTROL/BY BILL BISHOP

FINAL TRIBUTE

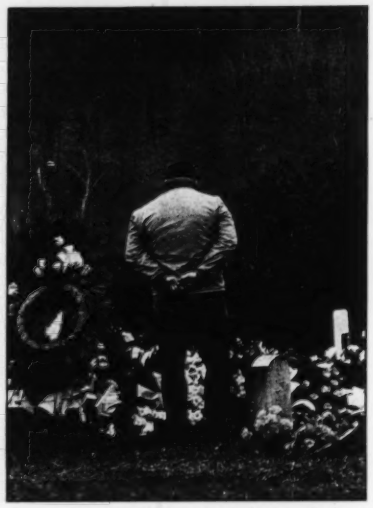
It would be hard to fix an exact date for when public and legislative demands for coal mine safety and the grass-roots push for a militant miners' union died. Symbolically, perhaps, the movement ended earlier this year, when Consolidation Coal Company announced that it would halt the decade-long search for the 19 remaining bodies still buried in "Consol's" Number 9 mine near Farmington, West Virginia.

Ten years ago, on November 20, Number 9 exploded, killing 78 of the 99 men who worked in the massive underground operation. Nightly television reports on the search for survivors and the attempts to recover the miners' bodies extended through the Thanksgiving weekend, giving Americans their first real taste of what life was like in the eastern coalfields.

The reports that followed the disaster did not sit well with the holiday spirit. Americans learned, among other things, that death was not new to Number 9; that, in fact, 16 people had been killed in a similar explosion 14 years earlier. The Governor of West Virginia publicly called the disaster "one of the hazards of mining," and United Mine Workers (UMW) President W.A. "Tony" Boyle, sporting a red rose in his lapel, praised Consol as "one of the best companies to work with as far as cooperation and safety are concerned."

Though the immediate surface effect of the Farmington disaster was to create a national sense of outrage over safety conditions, in the coal camps scattered up and down the black-topped roads of southern Appalachia, the anger touched off by the fires in Number 9 cut much deeper. Coal miners felt betrayed—by their union, by their government and by a country that demanded coal but ignored the plight of the people who had to dig it.

Miners put their anger to good use. Bolstered by a then sympathetic public, over the next four years they pieced together a grass-roots reform movement the likes of which most protesters of the time could only dream of. In 1969, 42,000 of West Virginia's 44,000 miners stayed out of the pits until the state passed legislation allowing compensation for black lung, the pulmonary disease caused by years of breathing coal dust. Later that year, a similar regional lobbying effort forced



through a tough law mandating federal mine safety and compensation for black lung.

The miners also turned to their union. Six months after Farmington, Pennsylvania UMW leader Joseph A. ("Jock") Yablonski announced that he would oppose Boyle for the union's presidency. The reform slate lost in a December 1969 election that was marked by pervasive vote fraud and an apathetic press. Less than a month afterward, Yablonski and his wife and daughter were murdered by three men later found to have been hired on Boyle's command. As with the Farmington explosion, the deaths of the Yablonskis only galvanized the movement. In 1972, the government ordered a rerun of the 1969 election. Yablonski's political progeny, the Miners For Democracy, swept into office. When a crowd of jubilant rank-and-file miners swarmed into UMW headquarters after the vote, they had reason to be hopeful. In three years they had accomplished much, and with their newly discovered power they felt they would achieve much more.

But now, on the tenth anniversary of the Farmington disaster, the evidence is overwhelming that the nation's and the UMW's concern for the health and safety of its coal miners has vanished.

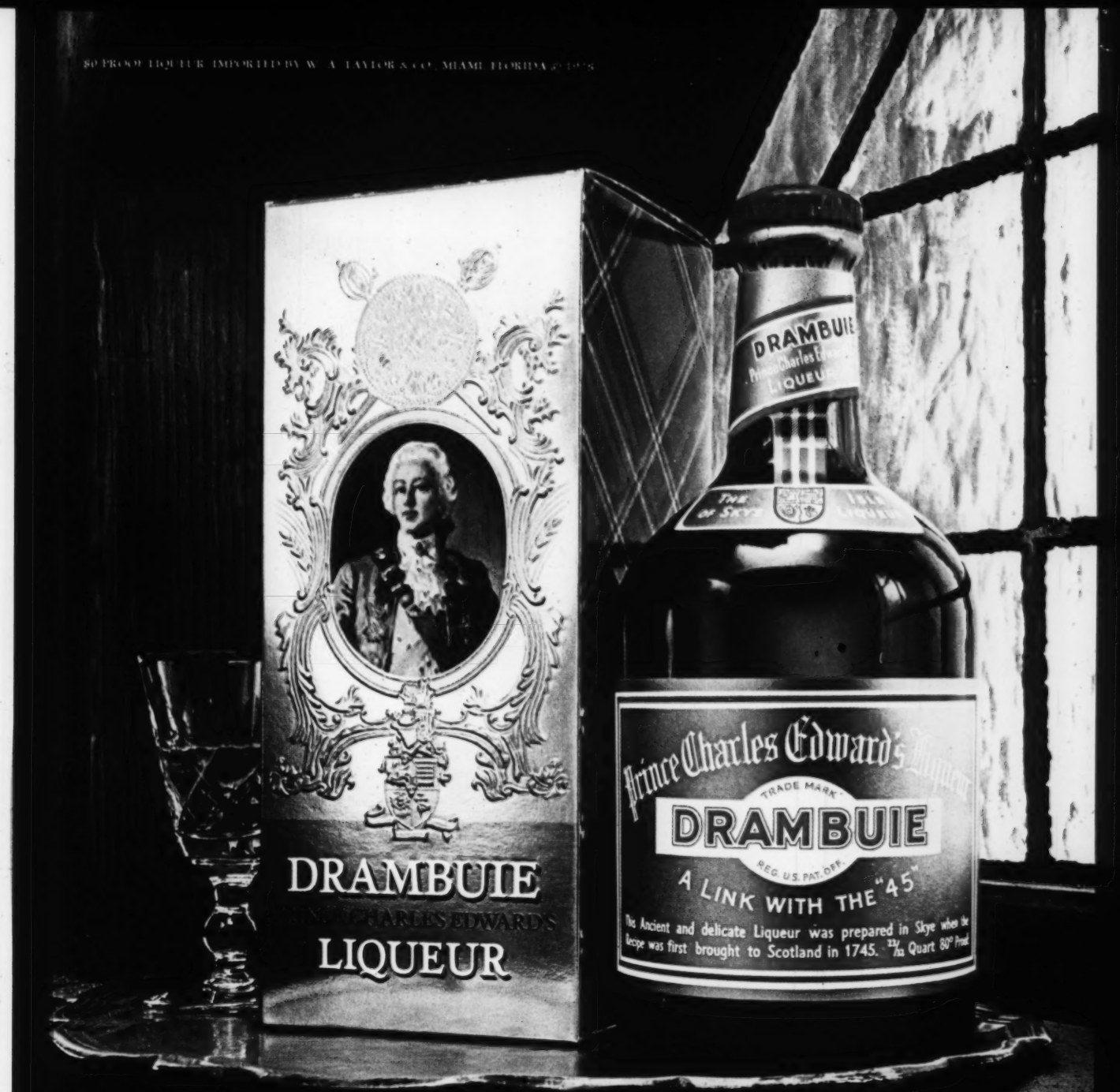
Recent legislation, touted as providing major revisions of the 1969 Federal Health and Safety Act, has done little more than make cosmetic changes. The Labor Department still has only 100 case workers to handle a sea of black-lung compensation claims—more than 28,000 from Pennsylvania alone—and the agency still judges the health of miners' lungs by overly narrow standards and out-of-date methods. Though more than 1,300 miners have died on the job since the 1969 law went into effect, the major modification of the federal act Congress has been able to muster was to switch the agency in charge of mine safety from the Department of Interior to Labor.

The same trend can be seen in the UMW, where the safety department has been turned from a vital part of the union into a storehouse for political cronies of union president Arnold Miller. Recent lobbying efforts by the UMW on major safety proposals have fallen in line more often with the industry's desires than with those of the working miner.

In the ten appointments Jimmy Carter has made to two commissions dealing with coal, he has not named a single strong-willed advocate for mine health and safety. Instead, he has chosen a Texas banker, an ex-California congressman and West Virginia Governor Jay Rockerfeller.

For miners, the situation is bound to worsen. The times began to change during the Arab oil embargo winter of 1973-74. The natural course of things in the coal industry has never tended toward the enforcement of tough health and safety regulations; and with the national call for a doubling of coal production by 1985, the flood of protest in the coalfields and the halls of Congress gradually began to return to its banks. Production is now the watchword when it comes to coal, as evidenced by the 1978 UMW contract that provides for productivity incentives, a provision that traditionally has been avoided because it would take its toll in injuries incurred in work speedups. Backed by oil concerns, the industry is now ready to return to the old way of doing business—only this time with a patriotic zeal.

The "moral equivalent of war" will have its casualties in the coalfields. Most observers expect death rates to rise over the next few years, especially with the influx of inexperienced miners into the pits, sent to meet the 1985 energy quota. Perhaps until another Farmington explodes, that is, and the attention of the nation once again is trained on the coalfields and we take a small step toward making coal mining a humane occupation. ●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